

2015 Regular Session

SENATE BILL NO. 205

BY SENATOR CROWE AND REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

GOVERNMENT ORGANIZATION. Creates the Louisiana Balance of Powers Joint Legislative Committee. (gov sig)

1 AN ACT

2 To enact Chapter 11 of Title 24 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 24:671 through 676, relative to the Legislature; to provide for the Louisiana

4 Balance of Powers Joint Legislative Committee; to provide for legislative findings

5 and purpose; to provide for restrictions; to provide for notice; to provide for

6 membership of the committee; to provide for term of service; to provide for duties;

7 to provide for action by the committee; to provide for action taken by the legislature;

8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 11 of Title 24 of the Louisiana Revised Statutes of 1950,

11 comprised of R.S. 24:671 through 676, is hereby enacted to read as follows:

12 **CHAPTER 11. LOUISIANA BALANCE OF POWERS**

13 **JOINT LEGISLATIVE COMMITTEE**

14 **§671. Committee created; findings; purpose**

15 **A. The Louisiana Balance of Powers Joint Legislative Committee is**

16 **hereby created and established.**

17 **B. The legislature finds and declares all of the following:**

1 **(1) That the Tenth Amendment to the Constitution of the United States**
2 **of America guarantees and reserves to the states and the people all powers not**
3 **delegated to the federal government elsewhere in the Constitution as they were**
4 **originally intended and publicly understood at the time that the amendment was**
5 **ratified on December 15, 1791, and subject only to modifications by duly**
6 **ratified subsequent amendments to the Constitution of the United States of**
7 **America.**

8 **(2) In accordance with the compact between the state and the people of**
9 **Louisiana and the United States as of the time that Louisiana was admitted to**
10 **statehood on April 30, 1812, the Tenth Amendment to the Constitution of the**
11 **United States of America reserves to the state and the people of Louisiana that,**
12 **other than the enumerated powers expressly delegated to the United States**
13 **under Article 1, Section 8 of the Constitution of the United States of America,**
14 **Congress and the federal government are prohibited from exercising any**
15 **purported additional control over, or from commandeering rights belonging to,**
16 **the State of Louisiana or its people.**

17 **(3) The Constitution of the United States of America was ratified on June**
18 **21, 1788, and it affirms that the sole and sovereign power to regulate the state**
19 **business and affairs rests in the state legislatures and that such power has**
20 **always been a compelling state concern and is central to state sovereignty and**
21 **security. Accordingly, the foregoing public meaning and understanding of**
22 **Article 1, Section 8, the Establishment Clause of the First Amendment and the**
23 **Tenth Amendment of the Constitution of the United States of America, is a**
24 **matter of compact between the state and people of Louisiana and the United**
25 **States as of the time that Louisiana was admitted to statehood. Further, the**
26 **power to regulate commerce among the several states as delegated to the**
27 **Congress in Article 1, Section 8, Clause 3 of the Constitution of the United**
28 **States of America as understood at the time of the founding, was meant to**
29 **empower Congress to regulate the buying and selling of products made by**

1 others, including associated finance and financial instruments, and the
2 navigation and other carriage only to the extent that those transactions were
3 across state jurisdictional lines. This power to regulate commerce does not
4 include the power to regulate agriculture, manufacturing, mining, major
5 crimes, or land use when such activities take place within the jurisdictional
6 boundaries of the state of Louisiana.

7 (4)(a) At the time the Constitution of the United States of America was
8 ratified, the Commerce Clause was not meant or understood to authorize
9 Congress, the executive branch, or the federal judiciary to regulate the state
10 courts in the matter of state substantive law or state judicial procedure. This
11 meaning and understanding of Article 1, Section 8, the Establishment Clause of
12 the First Amendment and the Tenth Amendment of the Constitution of the
13 United States of America, as they pertain to the validity of religious, sectarian,
14 or foreign law as being controlling or influential precedent has never been
15 modified by any duly ratified amendment to the Constitution of the United
16 States of America. Accordingly, the foregoing public meaning and
17 understanding of Article 1, Section 8, and the Tenth Amendment of the
18 Constitution of the United States of America is a matter of compact between the
19 state and people of Louisiana and the United States as of the time that Louisiana
20 was admitted to statehood on April 30, 1812.

21 (b) Further, under Article 1, Section 8, Clause 18 of the Constitution of
22 the United States of America, the Necessary and Proper Clause is not a blank
23 check that empowers the federal government to do anything it deems necessary
24 or proper. It is instead a limitation of power under the common law doctrine of
25 principals and incidents, which restricts the power of Congress to exercise
26 incidental powers. There are two main conditions required for something to be
27 incidental and therefore necessary and proper. The law or power exercised
28 must be first, directly applicable to the main, enumerated power, and secondly,
29 it must be lesser than the main power.

1 **(5) In accordance with Article 1, Section 8, Clause 1 of the Constitution**
2 **of the United States of America, the General Welfare Clause does not empower**
3 **the federal government with the ability to do anything it deems good. It is**
4 **instead a general restriction limiting the exercise of the enumerated powers of**
5 **Congress set forth in Article 1, Section 8 of the Constitution of the United States**
6 **of America, requiring that Congress only enact laws which serve all citizens well**
7 **and equally. When James Madison was asked if this clause were a grant of**
8 **power, he replied, "If not only the means but the objects are unlimited, the**
9 **parchment [the Constitution] should be thrown into the fire at once."** Thus, we
10 **reestablish that this clause is a limitation on the power of the federal**
11 **government to act in the welfare of all when passing laws in pursuance of the**
12 **powers delegated to the United States, showing no favor to any race, creed,**
13 **color, or socio-economic class. Likewise, the Commerce Clause was not meant**
14 **or understood to authorize Congress or the federal judiciary to establish**
15 **religious, sectarian, or foreign statutes or case law as controlling or influential**
16 **precedent. Accordingly, the foregoing public meaning and understanding of**
17 **Article 1, Section 8, the Establishment Clause of the First Amendment and the**
18 **Tenth Amendment of the Constitution of the United States of America is a**
19 **matter of compact between the state and people of Louisiana and the United**
20 **States as of the time that Louisiana was admitted to statehood on April 30, 1812.**

21 **(6)(a) We acknowledge that the Commerce Clause, the General Welfare**
22 **Clause, and the Necessary and Proper Clause of the Constitution of the United**
23 **States of America were amended and made more specific and limiting at the**
24 **people's insistence through the creation of the Bill of Rights, and more**
25 **specifically, the Second Amendment, the Ninth Amendment, and the Tenth**
26 **Amendment. All amendments contained in the Bill of Rights were for the**
27 **purpose of further restricting federal powers, vesting, or retaining the ultimate**
28 **power and control of the states by the people within the states. Therefore, we**
29 **specifically reject and deny any federal claim of expanded or additional**

1 authority which the federal government may from time to time attempt to exert,
2 exercise, or enforce under these clauses as these actions totally disrupt and
3 degrade the emphasis on the balance of powers articulated by the founding
4 fathers of this country.

5 (b) Further, the people of the state of Louisiana are aware that the
6 federal government has amended and altered the spirit and the meaning of the
7 Commerce Clause without proper legislative authority through amendment.
8 Therefore, we reject and deny this unauthorized and excessive abuse of power
9 which has primarily acted as a detriment to states' rights and individual rights,
10 a deliberate attempt to negatively alter the balance of powers which is provided
11 for in the Constitution of the United States of America.

12 §672. Constitutional restrictions; notice requirements; demand

13 A. In accordance with the Constitution of the United States of America,
14 Congress and the federal government are denied the power to establish or affect
15 laws within this state which are repugnant and obtrusive to the Constitution of
16 the United States of America, the Constitution of Louisiana, state law, and the
17 citizens of the state. The federal government is restrained and confined in
18 authority by the eighteen items as set forth in Article 1, Section 8 of the
19 Constitution of the United States of America.

20 B. Congress and the federal government are hereby denied the power to
21 bind the states under foreign statute, court order, opinion, or executive order,
22 other than those provisions duly ratified by the Congress as a treaty so long as
23 the treaty does not violate the Constitution of Louisiana or the Constitution of
24 the United States of America.

25 C. No authority has ever been given to the legislative branch, the
26 executive branch, or the judicial branch of the federal government to do any of
27 the following:

28 (1) Preempt state legislation where state legislation is not in conflict with
29 the Constitution of the United States of America.

1 **(2) Destroy the balance of powers and the dual sovereignty between the**
2 **federal government and the state governments which is set forth in the**
3 **Constitution of the United States of America.**

4 **D. The provisions of this Chapter shall serve as a notice and demand to**
5 **the federal government to cease and desist any and all activities outside the**
6 **scope of its designated constitutionally enumerated powers and that attempt to**
7 **diminish the balance of powers as established.**

8 **§673. Membership; term; quorum**

9 **A. To enforce a constitutional balance of powers the Louisiana Balance**
10 **of Powers Joint Legislative Committee is created. The membership of the**
11 **committee is made up of all of the following:**

12 **(1) The president of the Louisiana Senate or the president's designee.**

13 **(2) Six members of the Louisiana Senate appointed by the president.**

14 **(3) The speaker of the Louisiana House of Representatives or the**
15 **speaker's designee.**

16 **(4) Six members of the Louisiana House of Representatives appointed by**
17 **the speaker.**

18 **B.(1) No more than four members of the Senate and no more than four**
19 **members of the House of Representatives may be from the same political party.**

20 **(2)(a) The initial members shall serve until January 15, 2016.**

21 **(b) The members who are appointed on or after January 15, 2016, shall**
22 **serve four-year terms.**

23 **(c) Any vacancy on the committee shall be filled in the same manner as**
24 **the original appointment. Any member who is appointed to fill a vacancy shall**
25 **serve the remainder of the predecessor's term.**

26 **(3) A majority of the members constitute a quorum for the transaction**
27 **of business. The president of the Senate and the speaker of the House of**
28 **Representatives shall serve as cochairs of the committee. The committee shall**
29 **meet on the call of either cochair.**

1 **(4) Any motion or action of the committee must be approved by a vote**
2 **of fifty percent plus one additional member of those members present.**

3 **§674. Duties**

4 **The committee may do any of the following:**

5 **(1) Review and make recommendations to the legislature regarding any**
6 **unfunded mandate from any branch of the federal government. For the**
7 **purposes of this Chapter, "unfunded mandate" means any law, statute, opinion,**
8 **order, rule, or regulation that requires the state of Louisiana or any of its**
9 **departments, offices, divisions, agencies, commissions, boards, committees, or**
10 **other organizational unit of the state to perform certain actions with no money**
11 **or inadequate monies provided by the federal government for fulfilling the**
12 **requirements.**

13 **(2) Request an opinion from the attorney general as to the**
14 **constitutionality of any act of any branch of the federal government.**

15 **(3) Recommend that the legislature invoke the assistance of the attorney**
16 **general to represent the state in any action against any overreach by any branch**
17 **of the federal government.**

18 **(4) Recommend steps and actions to the legislature which the legislature**
19 **can take to neutralize in part or in its entirety a specific federal law or**
20 **regulation that is outside the scope of the powers delegated by the people to the**
21 **federal government in the Constitution of the United States of America.**

22 **(5) Review any and all existing federal statutes, mandates, and executive**
23 **orders which impact the state of Louisiana for the purpose of determining their**
24 **constitutionality.**

25 **(6) Recommend steps and actions to the legislature which the legislature**
26 **can take to neutralize in part or in their entirety any existing federal statutes,**
27 **mandates, and executive orders enacted before the effective date of this Act, if**
28 **the committee determines that those measures are either beyond the scope and**
29 **power assigned to the federal government under Article 1 of the Constitution**

1 of the United States of America, or in direct violation of the Constitution of
2 Louisiana.

3 (7) Report in writing to the president of the Senate and the speaker of the
4 House of Representatives all of the findings and recommendations of the
5 committee.

6 §675. Action by the legislature

7 A. If the legislature is in a regular session, the report of the committee
8 shall be received by the respective house of the legislature in the same manner
9 as the report of any other standing committee of the respective house.

10 B.(1) If the legislature is not in regular session upon receipt of the
11 committee's report by the president of the Senate and the speaker of the House
12 of Representatives, the presiding officers of the legislature shall notify both
13 houses of the legislature regarding the findings of the committee.

14 (2) The legislature may be convened by the presiding officers of both
15 houses upon written petition of a majority of the elected officials of each house
16 of the legislature in accordance with Article III, Section 2 of the Constitution of
17 Louisiana.

18 C. The legislature shall vote on the recommendations of the committee.
19 Until the vote by the legislature the recommendation of the committee shall not
20 be effective. The legislature's vote shall be documented in the journals of the
21 respective chambers.

22 D. If the legislature votes by simple majority to accept the
23 recommendation of the committee and therefore finds that a federal statute,
24 mandate, or executive order lacks proper constitutionality, then the legislature
25 shall enact legislation or take all steps necessary to protect the citizens of
26 Louisiana so that they shall not be obligated to live under the federal statute,
27 mandate, or executive order.

28 E. The legislature may be charged to communicate the intentions of this
29 Chapter to the legislatures of the several states to assure that this state

1 continues in the same esteem and friendship as currently exists, and that it
2 considers union for specific national purposes and particularly those
3 enumerated in the Constitution of the United States of America to be friendly
4 to the peace, happiness, and prosperity of all the states.

5 §676. Duties of the legislature

6 A. It is the duty of the legislature to adopt and enact any and all
7 measures that may become necessary to prevent the wrongful enforcement of
8 any federal laws or regulations duly neutralized within the boundaries and
9 limits of this state.

10 B. Article 3, Section 2 of the Constitution of the United States of America
11 states that in all cases affecting ambassadors, other public ministers and
12 consuls, and those in which a state shall be party, the Supreme Court of the
13 United States shall have original jurisdiction. In any cause of action between
14 this state and the federal government regarding state neutralization of a piece
15 of federal legislation, judicial mandate, or executive order, the proper
16 jurisdiction for these disputes will lie with the Supreme Court of the United
17 States alone. If there is improper adjudication by the Supreme Court, then the
18 people's interest shall be maintained and retained through a state referendum.

19 C. Under the Tenth Amendment the people and the state retain their
20 exclusive power to regulate the state, subject only to the Fourteenth
21 Amendment's guarantee that the people and the state shall exercise such
22 sovereign power in accordance with each citizen's lawful privileges or
23 immunities, and in compliance with the requirements of due process and equal
24 protection of the law.

25 D. The Ninth Amendment to the Constitution of the United States of
26 America secures and reserves to the people of Louisiana, as against the federal
27 government, their natural rights to life, liberty, and property as entailed by the
28 traditional American conception of ordered liberty and as secured by state law,
29 including but not limited to their rights as they were understood and secured

- navigation and other carriage only to the extent that those transactions occurred across state jurisdictional lines. This power to regulate commerce does not include the power to regulate agriculture, manufacturing, mining, major crimes, or land use when such activities take place within the jurisdictional boundaries of the state of La.
- (4) At the time the U.S. Constitution was ratified, the Commerce Clause was not meant or understood to authorize Congress, the executive branch, or the federal judiciary to regulate the state courts in the matter of state substantive law or state judicial procedure. This meaning and understanding of Art. 1, Sec. 8, the Establishment Clause of the 1st Amendment and the 10th Amendment of the U.S. Constitution, as they pertain to the validity of religious, sectarian, or foreign law as being controlling or influential precedent has never been modified by any duly ratified amendment to the U.S. Constitution. Accordingly, the foregoing public meaning and understanding of Art. 1, Sec. 8, and the 10th Amendment of the U.S. Constitution is a matter of compact between the state and people of La. and the U.S. as of the time that La. was admitted to statehood on April 30, 1812.
- (5) Under Art. 1, Sec. 8, Clause 18 of the U.S. Constitution, the Necessary and Proper Clause is not a blank check that empowers the federal government to do anything it deems necessary or proper. It is instead a limitation of power under the common law doctrine of principals and incidents, which restricts the power of Congress to exercise incidental powers. There are two main conditions required for something to be incidental and therefore necessary and proper. The law or power exercised must be first, directly applicable to the main, enumerated power, and secondly, it must be lesser than the main power.
- (6) In accordance with Art. 1, Sec. 8, Clause 1 of the U.S. Constitution, the General Welfare Clause does not empower the federal government with the ability to do anything it deems good. It is instead a general restriction limiting the exercise of the enumerated powers of Congress set forth in Art. 1, Section 8 of the U.S. Constitution, requiring that Congress only enact laws which serve all citizens well and equally. When James Madison was asked if this clause were a grant of power, he replied, "If not only the means but the objects are unlimited, the parchment [the Constitution] should be thrown into the fire at once." Thus, we reestablish that this clause is a limitation on the power of the federal government to act in the welfare of all when passing laws in pursuance of the powers delegated to the U.S., showing no favor to any race, creed, color, or socio-economic class. Likewise, the Commerce Clause was not meant or understood to authorize Congress or the federal judiciary to establish religious, sectarian, or foreign statutes or case law as controlling or influential precedent. Accordingly, the foregoing public meaning and understanding of Art. 1, Sec. 8, the Establishment Clause of the 1st Amendment and the 10th Amendment of the U.S. Constitution is a matter of compact between the state and people of La. and the U.S. as of the time that La. was admitted to statehood on April 30, 1812.
- (7) We acknowledge that the Commerce Clause, the General Welfare Clause, and the Necessary and Proper Clause of the U.S. Constitution were amended and made more specific and limiting at the people's insistence through the creation of the Bill of Rights, and more specifically, the 2nd Amendment, the 9th Amendment, and the 10th Amendment. All amendments contained in the Bill of Rights were for the purpose of further restricting federal powers, vesting, or retaining the ultimate power and control of the states by the people within the states. Therefore, we specifically reject and deny any federal claim of expanded or additional authority which the federal government may from time to time attempt to exert, exercise, or enforce under these clauses as these actions totally disrupt and degrade the emphasis on the balance of powers articulated by the founding fathers of this country.
- (8) Further, the people of the state of La. are aware that the federal government has

amended and altered the spirit and the meaning of the Commerce Clause without proper legislative authority through amendment. Therefore, we reject and deny this unauthorized and excessive abuse of power which has primarily acted as a detriment to states' rights and individual rights, a deliberate attempt to negatively alter the balance of powers which is provided for in the U.S. Constitution.

Proposed law provides that proposed law shall serve as a notice and demand to the federal government to cease and desist any and all activities outside the scope of its designated constitutionally enumerated powers and that attempt to diminish the balance of powers as established.

Proposed law provides for membership to the La. Balance of Powers Joint Legislative Committee as follows:

- (1) The president of the La. Senate or the president's designee.
- (2) Six members of the La. Senate appointed by the president.
- (3) The speaker of the La. House of Representatives or the speaker's designee.
- (4) Six members of the La. House of Representatives appointed by the speaker.

Proposed law provides that no more than four members of the Senate and no more than four members of the House of Representatives may be from the same political party.

Proposed law provides that the initial members shall serve until January 15, 2016. Proposed law provides that the members who are appointed on or after January 15, 2016, shall serve four-year terms.

Proposed law provides that any vacancy on the committee shall be filled in the same manner as the original appointment. Proposed law provides that any member who is appointed to fill a vacancy shall serve the remainder of the predecessor's term.

Proposed law provides that a majority of the members constitute a quorum for the transaction of business.

Proposed law provides that the president of the Senate and the speaker of the House of Representatives shall serve as cochair of the committee. Proposed law provides that the committee shall meet on the call of either cochair.

Proposed law provides that the committee may do any of the following:

- (1) Review and make recommendations to the legislature regarding any unfunded mandate from any branch of the federal government. For the purposes of proposed law "unfunded mandate" means any law, statute, opinion, order, rule or regulation that requires the state of Louisiana or any of its departments, offices, divisions, agencies, commissions, boards, committees, or other organizational unit of the state to perform certain actions, with no money or inadequate monies provided by the federal government for fulfilling the requirements.
- (2) Request an opinion from the attorney general as to the constitutionality of any act of any branch of the federal government.
- (3) Recommend that the legislature invoke the assistance of the attorney general to represent the state in any action against any overreach by any branch of the federal government.
- (4) Recommend steps and actions to the legislature which the legislature can take to

- neutralize in part or in its entirety a specific federal law or regulation that is outside the scope of the powers delegated by the people to the federal government in the U.S. Constitution.
- (5) Review any and all existing federal statutes, mandates, and executive orders which impact the state of Louisiana for the purpose of determining their constitutionality.
 - (6) Recommend steps and actions to the legislature which the legislature can take to neutralize in part or in their entirety any existing federal statutes, mandates, and executive orders enacted before the effective date of proposed law if the committee determines that those measures are either beyond the scope and power assigned to the federal government under Article 1 of the U.S. Constitution or in direct violation of the La. Constitution.
 - (7) Report in writing to the president of the Senate and the speaker of the House of Representatives all of the findings and recommendations of the committee.

Proposed law provides that if the legislature is in a regular session the report of the committee shall be received by the respective house of the legislature in the same manner as the report of any other standing committee of the respective house.

Proposed law provides that if the legislature is not in regular session upon receipt of the committee's report by the president of the Senate and the speaker of the House of Representatives, the presiding officers of the legislature shall notify both houses of the legislature regarding the findings of the committee.

Proposed law provides that if the legislature is not in regular session, the legislature may be convened by the presiding officers of both houses upon written petition of a majority of the elected officials of each house legislature in accordance with La. Constitution.

Proposed law provides that until the vote by the legislature the recommendation of the committee shall not be effective. Proposed law provides that the legislature's vote shall be documented in the journals of the respective chambers.

Proposed law provides that if the legislature votes by simple majority to accept the recommendation of the committee and, therefore, finds that a federal statute, mandate, or executive order lacks proper constitutionality, then the legislature shall enact legislation or take all steps necessary to protect the citizens of Louisiana so that they shall not be obligated to live under the federal statute, mandate, or executive order.

Proposed law provides that the legislature shall communicate the intentions of proposed law to the legislatures of the several states to assure that this state continues in the same esteem and friendship as currently exists and that it considers union for specific national purposes and particularly those enumerated in the U.S. Constitution to be friendly to the peace, happiness, and prosperity of all the states.

Proposed law provides that it is the duty of the legislature to adopt and enact any and all measures that may become necessary to prevent the wrongful enforcement of any federal laws or regulations duly neutralized within the boundaries and limits of this state.

Proposed law provides that according to Art. 3, Sec. 2 of the U.S. Constitution that in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court of the U.S. shall have original jurisdiction.

Proposed law further provides that in any cause of action between this state and the federal government regarding state neutralization of a piece of federal legislation, judicial mandate, or executive order, the proper jurisdiction for these disputes will lie with the U.S. Supreme Court alone. If there is improper adjudication by the U.S. Supreme Court the people's

interest shall be maintained and retained through a state referendum.

Proposed law provides that under the 10th Amendment, the people and the state retain their exclusive power to regulate the state subject only to the 14th Amendment's guarantee that the people and the state shall exercise such sovereign power in accordance with each citizen's lawful privileges or immunities, and in compliance with the requirements of due process and equal protection of the law.

Proposed law provides that the 9th Amendment to the U.S. Constitution secures and reserves to the people of La., as against the federal government, their natural rights to life, liberty, and property as entailed by the traditional American conception of ordered liberty and as secured by state law, including but not limited to their rights as they were understood and secured by the law at the time that the amendment was ratified on December 15, 1791, as well as their rights as they were understood and secured by the law in the state of La. when La. entered statehood.

Proposed law provides that the people and state hereby proclaim that the guarantee of those rights is a matter of compact between the state and people of La. and the U.S. as of the time that La. was admitted to statehood on April 30, 1812.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 24:671-676)