

109TH CONGRESS  
1ST SESSION

# H. R. 3621

To confer standing on State legislators and Governors to bring suit in Federal district court to preserve the residual core sovereignty of States under the Constitution as expressed in the Tenth Amendment, and to enforce the Guarantee Clause of the Constitution.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2005

Mr. CULBERSON introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To confer standing on State legislators and Governors to bring suit in Federal district court to preserve the residual core sovereignty of States under the Constitution as expressed in the Tenth Amendment, and to enforce the Guarantee Clause of the Constitution.

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

3       **SECTION 1. STANDING TO SEEK JUDICIAL REVIEW.**

4       (a) STANDING.—

5           (1) STATE LEGISLATORS.—Any member of a  
6       State legislative body, upon the adoption of a resolu-  
7       tion by the body, authorizing suit on behalf of the

1       State, shall have standing to bring an action on the  
2       ground that a Federal statute, rule, regulation, or  
3       program—

4                   (A) invades or otherwise violates or in-  
5                   trudes upon the residual core sovereign author-  
6                   ity of the State under the Constitution as ex-  
7                   pressed in the Tenth Amendment; or

8                   (B) damages or otherwise diminishes the  
9                   republican form of government in the State.

10               (2) GOVERNORS.—The Governor of a State  
11       shall have standing to bring an action on the ground  
12       that a Federal statute, rule, regulation, or pro-  
13       gram—

14                   (A) invades or otherwise violates or in-  
15                   trudes upon the residual core sovereign author-  
16                   ity of the State under the Constitution as ex-  
17                   pressed in the Tenth Amendment; or

18                   (B) damages or otherwise diminishes the  
19                   republican form of government in the State.

20               (b) VENUE.—An action under subsection (a) may be  
21       brought only in a district court of the United States for  
22       a judicial district that includes, in whole or in part, the  
23       geographic area represented by one of the authorized  
24       plaintiffs.

1       (c) RELIEF.—In any action brought under subsection  
2 (a), the court may grant injunctive relief, declaratory re-  
3 lief, or such other relief as the court deems appropriate.

4       (d) NO SANCTIONS FOR SUIT.—A person authorized  
5 to bring an action under subsection (a) shall not be subject  
6 to any sanction or liability for bringing, or participating  
7 in, the action, and shall not be liable for any attorney's  
8 fees of any defendant, or any court costs, with respect to  
9 the action.

10       (e) EXPEDITION.—A court having jurisdiction over  
11 an action brought under this section shall take all nec-  
12 essary and appropriate actions to advance on the docket  
13 and to expedite to the greatest possible extent the disposi-  
14 tion of any matter brought under this section.

15       (f) LEGAL REPRESENTATION.—A person bringing an  
16 action under subsection (a) shall be represented by the  
17 attorney general, or equivalent officer, of any State in the  
18 geographic area represented by one of the authorized  
19 plaintiffs, unless another provision of law prohibits such  
20 representation.

21       (g) CUMULATIVE RIGHTS.—The rights created by  
22 this section are in addition to the rights of any person  
23 under law.

24       (h) INTERVENTION.—A copy of any complaint in an  
25 action brought under this section by or on behalf of a

1 State shall be promptly delivered to the Governor of each  
2 other State, and to the administering authorities of the  
3 legislative bodies of each other State who shall be encour-  
4 aged to notify the members of such bodies of the filing  
5 of the action. Any such Governor shall have the right to  
6 intervene in any such action. Any member of any such  
7 State legislative body shall have the right to intervene in  
8 any such action upon the adoption of a resolution by the  
9 body authorizing intervention on behalf of the State.

10 (i) SEVERABILITY.—If any provision of this section,  
11 or the application of such provision to any person or cir-  
12 cumstance, is held invalid, the remainder of this section,  
13 or the application of such provision to persons or cir-  
14 cumstances other than those to which such provision is  
15 held invalid, shall not be affected thereby.

16 (j) INTENT OF THE CONGRESS.—It is the intent of  
17 the Congress that this Act be expansively construed and  
18 vigorously enforced—

19 (1) to preserve and protect the residual core  
20 sovereign authority of the States;  
21 (2) to maintain a clearly definable boundary be-  
22 tween Federal power and State power; and  
23 (3) to preserve political accountability and indi-  
24 vidual liberty by the preservation of our Federal sys-

1       tem of dual sovereignty between the States and the  
2       Federal Government.

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