

# State Enforcement of Federal law

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**OLRG**C

Office of Legislative Research  
and General Counsel



# FEDERALISM

## Principles

- **Separation of Powers**
- **Checks and Balances**
- **Bicameralism**
- **Federalism**

- **Complicated**
- **Tenth Amendment**
- **Supremacy Clause**
- **Federal Enforcement of State Law**

**Can states voluntarily enforce federal law?**

**Can states be compelled to enforce federal law?**



## Printz v. United States

521 U.S. 898 (1997)



“... the Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States.”

“. . . Congress cannot compel the States to enact or enforce a federal regulatory program. Today we hold that Congress cannot circumvent that prohibition by conscripting the State's officers directly.”

“The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program.”





“. . . such commands are fundamentally incompatible with our constitutional system of dual sovereignty.”



# State Action Resisting Enforcement of Federal Law

## Bills

- Bills declaring federal law invalid
- Bills aimed at 2<sup>nd</sup> Amendment issues
- Bills aimed at education issues
- Bills establishing a process to nullify federal law

### Indiana HCR13 – Failed

- Would have provided for nullification and phasing out of federal action “transcending authority specifically granted by the Constitution of the State of Indiana or the Constitution of the United States.”
- Didn’t specify which federal action it would apply to.

### **Oklahoma HCR1004 and HR1028 – Pending**

Resolution “declaring President Biden's executive action addressing gun violence issued April 7, 2021, as unconstitutional.”

### **Alabama HB400 and HB253 – Pending**

Prohibits enforcement (or use of public funds) for the implementation, regulation, or enforcement of federal executive orders or federal law effective after January 1, 2021, that regulates the ownership, use, or possession of firearms, ammunition, or firearm accessories.

### **Arkansas SB59 – Enacted**

Prevents federal government from regulating the manufacture, assembly, and trade of firearms and ammunition within the borders of Arkansas.

### **Arizona HB2111 – Enacted**

“This state and all political subdivisions of this state are prohibited from using any personnel or financial resources to enforce, administer or cooperate with any act, law, treaty, order, rule or regulation of the United States government that is inconsistent with any law of this state regarding the regulation of firearms.”

### Other Legislation

Florida HB1205 - Failed

Idaho SB1205 – Enacted

Louisiana HB118 – Pending

West Virginia HB2216, HB2946, SB353 - Failed



### **Prohibiting use of state funds for core curriculum, etc.**

Alabama HB117 – Enacted

Kansas HB2292 – Failed

Louisiana HB374 – Failed

Mississippi HB502 – Failed

Missouri HB2002 – Enacted

North Dakota HB1432 – Failed

Ohio HB64 - Enacted

### Alaska - SB118 - Pending

#### Committee on Nullification of Federal Laws

- Committee reviews and makes recommendations to entire Legislature on whether to pass a concurrent resolution nullifying a federal statute, regulation, or executive order on basis that that it is “outside the scope of the powers delegated to the federal government in the Constitution of the United States.”
- If Legislature adopts a resolution, “the state and the citizens of the state may not recognize or be obligated to abide by the federal law or executive order.”

### **Idaho HB322 - Pending Federalism Procedure**

Establishes a procedure for a committee to recommend that the Legislature declare a federal action null and void if they go “beyond the powers enumerated to the federal government in the constitution of the United States.”

### Other bills

Montana HB570 – Failed

North Dakota HB1282 – Failed

Oklahoma – HB1237 – Pending

South Carolina – HB3869 and SB538 - Pending