**South Carolina General Assembly**

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**S. 389**

**STATUS INFORMATION**

General Bill

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Summary: Joint Committee on Federalism

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/17/2023 Senate Introduced and read first time ([Senate Journal‑page 4](h:\sj\20230117.docx))

1/17/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 4](h:\sj\20230117.docx))

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**VERSIONS OF THIS BILL**

[01/17/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/389_20230117.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 81 TO TITLE 2 SO AS TO CREATE THE “JOINT COMMITTEE ON FEDERALISM” TO EVALUATE CERTAIN FEDERAL LAWS, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO SPECIFY THE PROCESS OF EVALUATION, AND TO SET FORTH OTHER DUTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 2 of the S.C. Code is amended by adding:

CHAPTER 81

Joint Committee on Federalism

Section 2‑81‑10. As used in this chapter:

(1) “Federal governmental entity” means:

(a) the President of the United States;

(b) the United States Congress;

(c) a United States agency; or

(d) an employee or official appointed by the President of the United States.

(2) “Federal law” means:

(a) an executive order by the President of the United States;

(b) a statute passed by the United States Congress;

(c) a regulation adopted by a United States agency; or

(d) a policy statement, guidance, or action by:

(i) a United States agency; or

(ii) an employee or official appointed by the President of the United States.

(3) “United States agency” means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

Section 2‑81‑20. (A) There is created the “Joint Committee on Federalism”. The committee shall consist of:

(1) the President Pro Tempore of the Senate, or his designee, who shall serve as co chairman of the committee;

(2) the Majority Leader of the Senate, or his designee;

(3) the Minority Leader of the Senate, or his designee;

(4) the Speaker of the House of Representatives, or his designee, who shall serve as co chairman of the committee;

(5) the Majority Leader of the House of Representatives, or his designee; and

(6) the Minority Leader of the House of Representatives, or his designee.

(B) The committee shall meet at least four times each year. Four members of the commission constitutes a quorum. The staff of the General Assembly shall staff the committee. The costs of the committee shall be borne by the approved accounts of each respective house of the General Assembly.

Section 2‑81‑30. (A) The committee shall evaluate whether a federal law is authorized by:

(1) United States Constitution, Article I, Section 2, to provide for the decennial census;

(2) United States Constitution, Article I, Section 4, to override state laws regulating the times, places, and manner of congressional elections, other than the place of senatorial elections;

(3) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions by Congress;

(4) United States Constitution, Article I, Section 8, to:

(a) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States;

(b) borrow money on the credit of the United States;

(c) regulate commerce with foreign nations, among the several states, and with the Indian tribes;

(d) establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;

(e) coin money, regulate the value of coin money and of foreign coin, and fix the standard of weights and measures;

(f) provide for the punishment of counterfeiting the securities and current coin of the United States;

(g) establish post offices and post roads;

(h) promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

(i) constitute tribunals inferior to the supreme court;

(j) define and punish piracies and felonies committed on the high seas and offences against the law of nations;

(k) declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

(l) raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

(m) provide and maintain a navy;

(n) make rules for the government and regulation of the land and naval forces;

(o) provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;

(p) provide for organizing, arming, and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;

(q) exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed ten miles square, as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; or

(r) make all laws which shall be necessary and proper for carrying into execution the powers listed in this section, and all other powers vested by the United States Constitution in the government of the United States, or in any department or officer of the United States;

(5) United States Constitution, Article I, Section 9, to authorize a federal officer to receive benefits from a foreign nation;

(6) United States Constitution, Article I, Section 10, to fix the pay of members of Congress and of federal officers;

(7) United States Constitution, Article II, Section 1, to:

(a) set the time for choosing electors; or

(b) establish who succeeds to the presidency after the vice president;

(8) United States Constitution, Article II, Section 2, to:

(a) serve as Commander in Chief of the armed forces;

(b) require the written opinions of executive officers;

(c) grant reprieves and pardons;

(d) make vacancy appointments;

(e) make treaties, subject to the advice and consent of the United States Senate;

(f) appoint foreign affairs officers subject to the advice and consent of the United States Senate;

(g) appoint domestic affairs officers subject either to the advice and consent of the United States Senate or pursuant to law;

(h) appoint judges subject to the advice and consent of the United States Senate; or

(i) authorize the president to fill designated inferior offices without senatorial consent;

(9) United States Constitution, Article II, Section 3, to:

(a) receive representatives of foreign powers;

(b) execute the laws;

(c) commission United States officers;

(d) give Congress information;

(e) make recommendations to Congress;

(f) convene Congress on extraordinary occasions; or

(g) adjourn Congress if it cannot agree on a time;

(10) United States Constitution, Article III, Section 1, to:

(a) create exceptions to the supreme court’s appellate jurisdiction;

(b) fix the jurisdiction of federal courts inferior to the supreme court; or

(c) declare the punishment for treason;

(11) United States Constitution, Article IV, Section 1, to establish the rules by which the records and judgments of states are proved in other states;

(12) United States Constitution, Article IV, Section 3, to:

(a) manage federal property;

(b) dispose of federal property;

(c) govern the federal territories; or

(d) consent to admission of new states or the combination of existing states;

(13) United States Constitution, Article IV, Section 4, to defend states from invasion, insurrection, and nonrepublican forms of government;

(14) United States Constitution, Article V, Section 1, to propose constitutional amendments;

(15) United States Constitution, Article VI, Section 1, to prescribe the oath for federal officers;

(16) United States Constitution, Amendment XIII, to abolish slavery;

(17) United States Constitution, Amendment XIV, to guard people from certain state abuses;

(18) United States Constitution, Amendment XVI, to impose taxes on income from any source without having to apportion the total dollar amount of tax collected from each state according to each state’s population in relation to the total national population;

(19) United States Constitution, Amendment XX, to revise the manner of presidential succession;

(20) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and protect the right to vote; or

(21) United States Constitution, Amendment XVII, to grant a pay raise to a sitting Congress.

(B) The committee shall evaluate whether a federal law violates the principle of federalism by:

(1) affecting the distribution of power and responsibility among the state and national government;

(2) limiting the policymaking discretion of the state;

(3) impacting a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; and

(4) impacting the sovereignty rights and interest of the state or a political subdivision to provide for the health, safety, and welfare and promote the prosperity of the state’s or political subdivision’s inhabitants.

(C) In the evaluation of a federal law, the committee:

(1) shall rely on:

(a) the text of the United States Constitution, as amended;

(b) the meaning of the text of the United States Constitution, as amended, at the time of its drafting and ratification; and

(c) a primary source document that is:

(i) directly relevant to the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended; or

(ii) created by a person directly involved in the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended;

(2) may rely on other relevant sources, including federal court decisions; and

(3) is not bound by a holding by a federal court.

Section 2‑81‑40. (A) If the committee determines that a federal law is not authorized by the United State Constitution or violates the principles of federalism, the committee may:

(1) request a meeting with members of Congress and the federal governmental entity responsible for adopting or administering the federal law;

(2) make recommendations to the General Assembly.

(B) By January tenth of each year, the committee shall prepare and deliver a report to the General Assembly detailing:

(1) any federal law determined to be unauthorized or violative of the principles of federalism;

(2) any action taken by the committee and any communication received by the committee.

(C) The report required pursuant to subsection (B) must be posted on the website maintained by the General Assembly.

Section 2‑81‑50. (A) The committee may correspond with the presiding officer of the legislative branch of another state or an entity of another state that has powers and duties that are similar to the committee to discuss and coordinate the evaluation of and response to federal law as provided in this chapter.

(B) Upon the enactment of this chapter, the committee shall send the text of this chapter to:

(1) the governor of each state;

(2) the presiding officer, the majority leader, and the minority leader of each house, if applicable, of each state legislature;

(3) each United States Senator or Representative elected from this state;

(4) the Chief Justice of the United States Supreme Court;

(5) the President of the United States; and

(6) the presiding officer, the majority leader, and the minority leader of each house of the United States Congress.

SECTION 2. This act takes effect upon approval by the Governor.

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