

1 HJR18
2 108900-3
3 By Representatives Canfield, Treadaway, Love, Wood, DeMarco,
4 Payne, Allen, Hubbard, Ward, Drake, McCutcheon, Bridges,
5 Clouse and Ison
6 RFD: Rules
7 First Read: 12-JAN-10

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8 CLAIMING SOVEREIGNTY UNDER THE TENTH AMENDMENT TO
9 THE CONSTITUTION OF THE UNITED STATES OVER CERTAIN POWERS,
10 SERVING NOTICE TO THE FEDERAL GOVERNMENT TO CEASE AND DESIST
11 CERTAIN MANDATES, AND PROVIDING THAT CERTAIN FEDERAL
12 LEGISLATION BE PROHIBITED OR REPEALED.

13
14 WHEREAS, the Tenth Amendment to the Constitution of
15 the United States reads as follows: "The powers not delegated
16 to the United States by the Constitution, nor prohibited by it
17 to the States, are reserved to the States respectively, or to
18 the people"; and

19 WHEREAS, the Tenth Amendment defines the total scope
20 of federal power as being that specifically granted by the
21 Constitution of the United States and no more; and

22 WHEREAS, Federalism is the constitutional division
23 of powers between the national and state governments and is
24 widely regarded as one of America's most valuable
25 contributions to political science; and

26 WHEREAS, James Madison, "the Father of the
27 Constitution," said, "The powers delegated to the federal

1 government are few and defined. Those which are to remain in
2 the state governments are numerous and indefinite. The former
3 will be exercised principally on external objects, [such] as
4 war, peace, negotiation, and foreign commerce. The powers
5 reserved to the several states will extend to all the objects
6 which, in the ordinary course of affairs, concern the lives,
7 liberties, and properties of the people."; and

8 WHEREAS, Thomas Jefferson emphasized that the states
9 are not "subordinate" to the national government, but rather
10 the two are "coordinate departments of one simple and integral
11 whole. The one is the domestic, the other the foreign branch
12 of the same government."; and

13 WHEREAS, Alexander Hamilton expressed his hope that
14 "the people will always take care to preserve the
15 constitutional equilibrium between the general and the state
16 governments." He believed that "this balance between the
17 national and state governments forms a double security to the
18 people. If one [government] encroaches on their rights, they
19 will find a powerful protection in the other. Indeed, they
20 will both be prevented from overpassing their constitutional
21 limits by [the] certain rivalship which will ever subsist
22 between them."; and

23 WHEREAS, the scope of power defined by the Tenth
24 Amendment means that the federal government was created by the
25 states specifically to be an agent of the states; and

26 WHEREAS, today, in 2010, the states are demonstrably
27 treated as agents of the federal government; and

1 WHEREAS, many federal laws are directly in violation
2 of the Tenth Amendment to the Constitution of the United
3 States; and

4 WHEREAS, the Tenth Amendment assures that we, the
5 people of the United States of America and each sovereign
6 state in the Union of States, now have, and have always had,
7 rights the federal government may not usurp; and

8 WHEREAS, Article IV, Section 4, United States
9 Constitution, says in part, "The United States shall guarantee
10 to every State in this Union a Republican Form of Government",
11 and the Ninth Amendment states that "The enumeration in the
12 Constitution, of certain rights, shall not be construed to
13 deny or disparage others retained by the people"; and

14 WHEREAS, the United States Supreme Court has ruled
15 in New York v. United States, 112 S. Ct. 2408 (1992), that
16 Congress may not simply commandeer the legislative and
17 regulatory processes of the states; and

18 WHEREAS, a number of proposals from previous
19 administrations and some now pending from the present
20 administration and from Congress may further violate the
21 Constitution of the United States; now therefore,

22 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
23 HOUSES THEREOF CONCURRING, That the State of Alabama hereby
24 claims sovereignty under the Tenth Amendment to the
25 Constitution of the United States over all powers not
26 otherwise enumerated and granted to the federal government by
27 the Constitution of the United States.

1 BE IT FURTHER RESOLVED, That this resolution serves
2 as notice and demand to the federal government, as our agent,
3 to cease and desist, effective immediately, mandates that are
4 beyond the scope of these constitutionally delegated powers.

5 BE IT FURTHER RESOLVED, That all compulsory federal
6 legislation that directs states to comply under threat of
7 civil or criminal penalties or sanctions or requires states to
8 pass legislation or lose federal funding be prohibited or
9 repealed.

10 BE IT FURTHER RESOLVED, That a copy of this
11 resolution be forwarded to the President of the United States,
12 the President of the United States Senate, the Speaker of the
13 United States House of Representatives, the Speaker of the
14 House and the President of the Senate of each state's
15 legislature, and the entire delegation of the Alabama members
16 of the U.S. Congress.