

HJR298

By Representative Canfield

RFD Rules

Rd 1 05-MAR-09 CLAIMING <> UNDER THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OVER CERTAIN POWERS, SERVING NOTICE TO THE FEDERAL GOVERNMENT TO CEASE AND DESIST CERTAIN MANDATES, AND PROVIDING THAT CERTAIN FEDERAL LEGISLATION BE PROHIBITED OR REPEALED.

WHEREAS, the Tenth Amendment to the Constitution of the United States reads as follows: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”; and

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

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

WHEREAS, James Madison, “the Father of the Constitution,” said, “The powers delegated to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, [such] as war, peace, negotiation, and foreign commerce. The powers reserved to the several states will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people.”; and

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

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

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

WHEREAS, today, in 2009, the states are demonstrably treated as agents of the federal government; and

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state’s legislature, and the entire delegation of the Alabama members of the U.S. Congress.