

HOUSE CONCURRENT RESOLUTION NO. 1013

A CONCURRENT RESOLUTION, Reasserting sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers and serving notice to the federal government to cease and desist certain mandates.

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 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 many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; 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, any Act by the Congress of the United States, Executive Order of the President of the United States of America, or Judicial Order by the judicatories of the United States of America which assumes a power not delegated to the government of the United States of America by the Constitution of the United States of America and which serves to diminish the liberty of any of the several states or their citizens constitutes a nullification of the Constitution of the United States of America by the government of the United States of America; 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 House of Representatives of the Eighty-fourth Legislature of the State of South Dakota, the Senate concurring therein, that the State of South

Dakota hereby reasserts sovereignty 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; and

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; and

BE IT FURTHER RESOLVED, that this concurrent resolution serve 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.

Adopted by the House of Representatives,
Concurred in by the Senate,

March 3, 2009
March 5, 2009

Timothy A. Rave
Speaker of the House

Karen Gerdes
Chief Clerk of the House

Dennis Daugaard
President of the Senate

Trudy Evenstad
Secretary of the Senate