

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

930Q0793

HOUSE CONCURRENT RESOLUTION NO. 1013

Introduced by: Representatives Steele, Bolin, Brunner, Carson, Cronin, Curd, Cutler, Deadrick, Dreyer, Engels, Greenfield, Hamiel, Hoffman, Hunt, Jensen, Juhnke, Kirkeby, Kopp, Krebs, Lange, Lederman, McLaughlin, Moser, Noem, Novstrup (David), Olson (Betty), Olson (Ryan), Peters, Putnam, Rausch, Rave, Romkema, Rounds, Russell, Schlekeway, Sly, Solum, Tidemann, Van Gerpen, Vanneman, Verchio, Wink, and Wismer and Senators Novstrup (Al), Adelstein, Bartling, Fryslie, Gant, Garnos, Gray, Hansen (Tom), Haverly, Howie, Hunhoff (Jean), Maher, Nelson, Olson (Russell), Peterson, Rhoden, and Schmidt

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

4 WHEREAS, the Tenth Amendment to the Constitution of the United States reads as
5 follows:

6 "The powers not delegated to the United States by the Constitution, nor prohibited by it to
7 the States, are reserved to the States respectively, or to the people."; and

8 WHEREAS, the Tenth Amendment defines the total scope of federal power as being that
9 specifically granted by the Constitution of the United States and no more and the scope of power
10 defined by the Tenth Amendment means that the federal government was created by the states
11 specifically to be an agent of the states; and



1 WHEREAS, today, in 2009, the states are demonstrably treated as agents of the federal
2 government and many federal mandates are directly in violation of the Tenth Amendment to the
3 Constitution of the United States; and

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

7 WHEREAS, any Act by the Congress of the United States, Executive Order of the President
8 of the United States of America, or Judicial Order by the judicatories of the United States of
9 America which assumes a power not delegated to the government of the United States of
10 America by the Constitution of the United States of America and which serves to diminish the
11 liberty of any of the several states or their citizens constitutes a nullification of the Constitution
12 of the United States of America by the government of the United States of America; and

13 WHEREAS, a number of proposals from previous administrations and some now pending
14 from the present administration and from Congress may further violate the Constitution of the
15 United States:

16 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
17 fourth Legislature of the State of South Dakota, the Senate concurring therein, that the State of
18 South Dakota hereby reasserts sovereignty under the Tenth Amendment to the Constitution of
19 the United States over all powers not otherwise enumerated and granted to the federal
20 government by the Constitution of the United States; and

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

24 BE IT FURTHER RESOLVED, that this concurrent resolution serve as Notice and Demand

- 1 to the federal government, as our agent, to cease and desist, effective immediately, mandates
- 2 that are beyond the scope of these constitutionally delegated powers.