

HOUSE JOINT RESOLUTION NO. HJ0002

Resolution-assertion of states' rights.

Sponsored by: Representative(s) Illoway, Anderson, R., Brechtel, Childers, Edmonds, Harvey, Lubnau, Madden, McOmie, Miller, Moniz, Quarberg, Shepperson, Simpson, Wallis and Zwonitzer, Dn. and Senator(s) Anderson, J., Bebout, Case, Cooper, Dockstader, Martin, Meier and Ross

A Bill

for

1 A JOINT RESOLUTION requesting Congress to cease and desist
2 from enacting mandates that are beyond the scope of the
3 enumerated powers granted to Congress by the Constitution
4 of the United States.

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6 WHEREAS, the Tenth Amendment to the Constitution of the
7 United States reads as follows: "The powers not delegated
8 to the United States by the Constitution, nor prohibited by
9 it to the States, are reserved to the States respectively,
10 or to the people"; and

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

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

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

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

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

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21 WHEREAS, Section 4, Article IV, of the Constitution says,
22 "The United States shall guarantee to every State in this
23 Union a Republican Form of Government," and the Ninth
24 Amendment states that "The enumeration in the Constitution,

1 of certain rights, shall not be construed to deny or
2 disparage others retained by the people"; and

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

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9 WHEREAS, the United States Congress frequently considers
10 and enacts laws, and the executive agencies of the federal
11 government frequently promulgate regulations, the
12 constitutional authority for which is either absent or
13 tenuous, including, without limitation, the Real ID Act,
14 which imposes significant unfunded mandates upon the states
15 with respect to the traditional state function of drivers
16 licensing, the Endangered Species Act, which, as construed
17 by the United States Fish & Wildlife Service, authorizes a
18 federal executive agency to require specific state
19 legislation related to the traditional state function of
20 wildlife management, the Clean Water Act, which, as
21 construed by the Environmental Protection Agency,
22 authorizes a federal executive agency to exercise
23 regulatory jurisdiction over waters that are not subject to
24 federal regulation, the Federal Land Policy and Management

1 Act, which implements a policy of federal lands retention
2 in derogation of the "equal footing" doctrine; and

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4 WHEREAS, a number of proposals from previous
5 administrations and some now pending from the present
6 administration and from Congress may further violate the
7 Constitution of the United States.

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9 *NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE*
10 *LEGISLATURE OF THE STATE OF WYOMING:*

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12 **Section 1.** That the Wyoming Legislature claims
13 sovereignty under the Tenth Amendment to the Constitution
14 of the United States over all powers not otherwise
15 enumerated and granted to the federal government by the
16 Constitution of the United States.

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18 **Section 2.** That this resolution serve as notice and
19 demand to the federal government, as our agent, to cease
20 and desist, effective immediately, from enacting mandates
21 that are beyond the scope of these constitutionally
22 delegated powers.

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1 **Section 3.** That all compulsory federal legislation
2 that directs states to comply under threat of civil or
3 criminal penalties or sanctions or that requires states to
4 pass legislation or lose federal funding be prohibited or
5 repealed.

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7 **Section 4.** That the Secretary of State of Wyoming
8 transmit copies of this resolution to the President of the
9 United States, to the President of the Senate and the
10 Speaker of the House of Representatives of the United
11 States Congress and to the Wyoming Congressional
12 Delegation, with a request that this resolution be
13 officially entered in the congressional record as a
14 memorial to the Congress of the United States of America.

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(END)