

## HOUSE JOINT RESOLUTION NO. HJ0003

Resolution to Congress and the United States Supreme Court.

Sponsored by: Representative(s) Childers, Buchanan, Jaggi,  
Krone, McOmie and Shepperson and Senator(s)  
Case, Coe and Jennings

## A BILL

for

1 A JOINT RESOLUTION demanding Congress cease and desist from  
2 enacting mandates beyond the enumerated powers granted to  
3 the Congress by the United States Constitution; calling on  
4 Congress to amend the tenth amendment and the interstate  
5 commerce clause in article 1, section 8 of the United  
6 States Constitution so as to restrict the egregious  
7 encroachment on states' rights through federal legislation  
8 and federal court decisions; and demanding that the United  
9 States Supreme Court refrain from issuing decisions which  
10 impermissibly expand federal power or restrict individual  
11 rights.

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13 WHEREAS, the tenth amendment to the Constitution of the  
14 United States reads as follows: "The powers not delegated  
15 to the United States by the Constitution, nor prohibited by

1 it to the States, are reserved to the States respectively,  
2 or to the people."; and

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4 WHEREAS, the tenth amendment to the Constitution of the  
5 United States defines the total scope of federal power as  
6 being that specifically granted by the Constitution of the  
7 United States and no more; and

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9 WHEREAS, the scope of the power defined by the tenth  
10 amendment to the Constitution of the United States means  
11 that the federal government was created by the states  
12 specifically to be an agent of the states; and

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14 WHEREAS, the states, through enactment of federal  
15 legislation and federal court decisions, are demonstrably  
16 treated as agents of the federal government; and

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18 WHEREAS, the tenth amendment to the Constitution of the  
19 United States assures that we, the people of the United  
20 States of America and each sovereign state in the union of  
21 states, now have, and have always had, rights the federal  
22 government may not usurp; and

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1 WHEREAS, many powers assumed by the federal government and  
2 federal mandates, and upheld by the federal courts, are  
3 directly in violation of the tenth amendment to the United  
4 States Constitution; and

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6 WHEREAS, the United States Supreme Court and the lower  
7 federal courts have upheld federal laws as constitutional  
8 exercises of Congressional authority which egregiously  
9 encroach and unconstitutionally contract states' rights in  
10 direct contradiction to the tenth amendment in such cases  
11 as *Helvering v. Davis*, 301 U.S. 619 (U.S. 1937); and

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13 WHEREAS, the interstate commerce clause in article 1,  
14 section 8 of the Constitution of the United States provides  
15 that Congress shall have the power: "To regulate Commerce  
16 with foreign Nations, and among the several States, and  
17 with Indian Tribes;" and

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19 WHEREAS, the interstate commerce clause is limited to the  
20 federal government regulating trade between the states and  
21 between the states and other nations, to help prevent  
22 conflicts between states over commercial activities and to  
23 prevent the erection of barriers to commerce between the  
24 states; and

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2 WHEREAS, the interstate commerce clause should not be used  
3 to provide Congress with authority to regulate matters that  
4 are primarily intrastate with only an insignificant or  
5 collateral effect upon interstate commerce; and

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7 WHEREAS, many federal laws are beyond the scope and intent  
8 of the interstate commerce clause to the Constitution of  
9 the United States; and

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11 WHEREAS, the United States Supreme Court and the lower  
12 federal courts have upheld federal laws as constitutional  
13 exercises of Congressional authority under the interstate  
14 commerce clause when those federal laws clearly exceeded  
15 the limited scope of the interstate commerce clause in such  
16 cases as *Wickard v. Filburn*, 317 U.S. 111 (1942) and *United*  
17 *States v. Carolene Products Co.*, 304 U.S. 144 (U.S. 1938);  
18 and

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20 WHEREAS, article 1, section 1 of the Constitution of the  
21 United States mandates that "[a]ll legislative Powers  
22 herein granted shall be vested in a Congress of the United  
23 States..."; and

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1 WHEREAS, Congress has violated the provisions of article 1,  
2 section 1 of the Constitution of the United States by  
3 unlawfully delegating their legislative authority to enact  
4 laws to federal agencies; and

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6 WHEREAS, the United States Supreme Court and the lower  
7 federal courts have upheld federal laws which unlawfully  
8 delegate Congress's authority to enact laws to federal  
9 agencies in violation of article 1, section 1 of the  
10 Constitution of the United States in such cases as *Whitman*  
11 *v. American Trucking Assns., Inc.*, 531 U.S. 457 (2001); and

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13 WHEREAS, the United States Supreme Court and the lower  
14 federal courts have impermissibly upheld laws and actions  
15 which violate an American citizen's right to bear arms as  
16 guaranteed by the second amendment to the Constitution of  
17 the United States in such cases as *United States v. Miller*,  
18 307 U.S. 174 (1939); and

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20 WHEREAS, the United States Supreme Court and the lower  
21 federal courts have upheld laws and actions which  
22 impermissibly impaired a private individual's obligations  
23 under a contract in direct violation of the contract clause  
24 of article 1, section 10 of the Constitution of the United

1 States in such cases as *Home Building & Loan Assn. v.*  
2 *Blaisdell*, 290 U.S. 398 (1934); and

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4 WHEREAS, the United States Supreme Court and the lower  
5 federal courts have upheld laws and actions which  
6 unconstitutionally encroach on private property rights  
7 without due process and just compensation in violation of  
8 the fifth and fourteenth amendments to the Constitution of  
9 the United States in such cases as *Kelo v. City of New*  
10 *London*, 545 U.S. 469 (2005) and *Penn Central Transport. Co.*  
11 *v. New York City*, 438 U.S. 104 (1978); and

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13 WHEREAS, the United States Supreme Court and the lower  
14 federal courts have upheld laws and actions which  
15 unconstitutionally seize private property without due  
16 process of law in violation of the fourth, fifth and  
17 fourteenth amendments to the Constitution of the United  
18 States in such cases as *Bennis v. Michigan*, 516 U.S. 442  
19 (1996); and

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21 WHEREAS, the United States Supreme Court and the lower  
22 federal courts have upheld laws and actions which  
23 unconstitutionally deny an individual equal protection of  
24 the laws based on that individual's race or ethnicity in

1 violation of the equal protection clause of the fourteenth  
2 amendment in such cases as *Grutter v. Bollinger*, 539 U.S.  
3 306 (2003); and

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5 WHEREAS, Congress may not commandeer the legislative and  
6 regulatory processes of the states, and the United States  
7 Supreme Court and the lower federal courts may not simply  
8 turn a blind eye to the unconstitutional expansion of  
9 federal power and restriction of individual rights.

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11 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE  
12 LEGISLATURE OF THE STATE OF WYOMING:

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14 **Section 1.** That the Wyoming Congressional delegation  
15 and Congress take action to initiate the amendment process  
16 provided by article 5 of the Constitution of the United  
17 States to amend the tenth amendment and article 1, section  
18 8 (the interstate commerce clause) of the Constitution of  
19 the United States.

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21 **Section 2.** That Congress amend the tenth amendment of  
22 the Constitution of the United States as follows, with  
23 proposed changes indicated in underscored text:

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1 The powers not expressly delegated to the United States by  
2 the Constitution, nor prohibited by it to the States, are  
3 reserved to the States respectively, or to the people.

4 This amendment shall be considered by all courts as a rule  
5 of interpretation and construction in any case involving an  
6 interpretation of any constitutional power claimed by the  
7 Congress.

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9 **Section 3.** That Congress amend the interstate  
10 commerce clause, article 1, section 8 of the Constitution  
11 of the United States as follows, with proposed changes  
12 indicated in underscored text:

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14 To directly regulate Commerce with foreign nations, and  
15 among the several states, and with the Indian Tribes, with  
16 no authority in Congress to regulate matters that are  
17 primarily intrastate with only an insignificant or  
18 collateral effect upon interstate commerce;

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20 **Section 4.** That Congress shall specify that the  
21 amendments to the tenth amendment and the interstate  
22 commerce clause, article 1, section 8 of the Constitution  
23 of the United States, as provided herein, shall be  
24 operative upon ratification by the legislatures of three-



1 fourths of the several states, provided that such  
2 ratification shall occur within seven years from the date  
3 of the submission of the amendments to the states by  
4 Congress.

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6       **Section 5.** That this state calls on its costates for  
7 an expression of their sentiments on the need to amend the  
8 tenth amendment and article 1, section 8 of the  
9 Constitution of the United States and that the United  
10 States Supreme Court refrain from issuing decisions which  
11 impermissibly expand federal power or restrict individual  
12 rights; as provided in this resolution.

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14       **Section 6.** That the United States Supreme Court shall  
15 refrain from issuing decisions which impermissibly expand  
16 federal power or restrict individual rights, as provided  
17 herein, and that the Court shall seek to reverse prior  
18 decisions which impermissibly expanded federal power or  
19 restricted individual rights at the earliest possible  
20 opportunity.

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22       **Section 7.**

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1           (a) That the Secretary of State of Wyoming transmit  
2 copies of this resolution:

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4           (i) To the President of the United States, to  
5 the President of the Senate and the Speaker of the House of  
6 Representatives of the United States Congress and to the  
7 Wyoming Congressional Delegation, with a request that the  
8 Wyoming Congressional Delegation take all reasonable and  
9 necessary actions to initiate the amendment process to  
10 amend the Constitution of the United States consistent with  
11 the language proposed in this resolution and that this  
12 resolution be officially entered in the congressional  
13 record as a memorial to the Congress of the United States  
14 of America;

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16           (ii) To the clerk of the United States Supreme  
17 Court with instructions that the resolution shall be  
18 distributed to all justices currently serving on the United  
19 States Supreme Court; and

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1                   (iii) To the Speaker of the House of  
2 Representatives and President of the Senate, or their  
3 equivalent, and the Governor of each of the other forty-  
4 nine states.

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(END)