

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.

12

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

3

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

8

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

13

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

17

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

23

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

5

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

12

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

18

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

1

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

6

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

10

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

19

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

24

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

5

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

12

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

19

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

3

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

12

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

20

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

4

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.

10

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

13

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.

20

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:

24

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.

8

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:

13

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;

19

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.

5

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.

13

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.

21

22 **Section 7.**

23

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

3

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;

15

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

20

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.

5

6

(END)