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HOUSE RESOLUTION NO. 5

Offered January 13, 2010

Prefiled January 13, 2010

Memorializing the Congress of the United States to honor state sovereignty under the Tenth Amendment to the Constitution of the United States.

Patrons—Landes, Peace, Albo, Anderson, Athey, Bell, Richard P., Bell, Robert B., Byron, Cline, Cole, Cox, J.A., Cox, M.K., Crockett-Stark, Dance, Garrett, Gilbert, Howell, W.J., Hugo, Iaquinto, Ingram, Janis, Jones, Lingamfelter, Lohr, Marshall, R.G., Massie, Merricks, Miller, J.H., Morefield, Morgan, Nixon, O'Bannon, Oder, Pogge, Poindexter, Rust, Scott, E.T., Sherwood, Stolle and Ware, R.L.

Referred to Committee on Privileges and Elections

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

WHEREAS, 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, the states today are demonstrably treated as agents of the federal government; and

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

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

WHEREAS, Article IV, Section 4 of the Constitution of the United States says that "The United States shall guarantee to every state in this Union a Republican form of government," and the Ninth Amendment states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"; and

WHEREAS, the United States Supreme Court has ruled in New York v. United States, 505 U.S. 144 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, a number of proposals from previous administrations, and other proposals that may be anticipated, may further violate the Constitution of the United States; now, therefore, be it

RESOLVED by the House of Delegates, That the Congress of the United States be urged to honor state sovereignty under the Tenth Amendment of the Constitution of the United States. The Commonwealth of Virginia hereby claims 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. The Commonwealth by this resolution serves notice to the federal government, as its agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers. Further, the Commonwealth urges 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 shall be prohibited or repealed.

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.

INTRODUCED

HRS