

## SENATE JOINT RESOLUTION NO. 358

*Memorializing Congress to observe the principles of federalism as required by the 10th Amendment to the Constitution of the United States.*

Agreed to by the Senate, February 23, 1995

Agreed to by the House of Delegates, February 22, 1995

WHEREAS, the 10th Amendment to the Constitution of the United States specifies that 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 founders of our Republic and the framers of the Constitution of the United States understood that centralized power is inconsistent with republican ideals, and accordingly limited the federal government to certain enumerated powers and reserved all other powers to the states and the people through the 10th Amendment; and

WHEREAS, the federal government has exceeded the clear bounds of its jurisdiction under the Constitution of the United States and has imposed ever-growing numbers of mandates, regulations, and restrictions upon states and local governments, thereby removing power and flexibility from the units of government closest to the people and increasing central control in Washington; and

WHEREAS, the United States Supreme Court recognized in *New York v. United States*, 112 S. Ct. 2408 (1992), that the constitutional limitations on federal power have continuing vitality, notwithstanding the general failure of the federal courts to afford remedies to the states and their citizens for violations of the 10th Amendment; and

WHEREAS, in holding that the states generally must rely on political processes in Washington for their protection, the federal courts have permitted Congress and federal agencies to treat the states as though they are merely part of the regulated community, rather than as sovereign partners in a federal system of shared powers; and

WHEREAS, federal mandates have imposed enormous costs on states and localities, draining away resources and preventing state governments from addressing pressing local needs such as education and law enforcement; and

WHEREAS, facing a persistent budget deficit, the federal government has forced the burden of funding federal programs onto state and local governments, resulting in an excessive tax burden at the state and local levels; and

WHEREAS, federal mandates and preemptive measures impose "one size fits all" requirements that deprive state and local governments of the ability to set priorities, thereby diminishing their ability to allocate resources and tailor programs in the way best suited to meet local needs; and

WHEREAS, states and localities are burdened not only by federal legislation, but also by mushrooming numbers of costly, complex, lengthy, and often incomprehensible regulations drafted by bureaucrats who are not accountable to the people; and

WHEREAS, the exercise of increasing power by Congress, the federal courts, and the federal bureaucracy has diminished the ability of citizens to influence the course of their government and has produced an ever-widening gulf between citizens' demands for change and the ability of state and local officials to effect that change; and

WHEREAS, experience has taught that the framers' design of a balanced federal system of shared powers and dual sovereignty can only be restored through federal constitutional changes that secure the rights and prerogatives of the states; and

WHEREAS, proposals for structural change likely to be considered by the United States Congress and the Council of State Governments' proposed Conference of the States include constitutional amendments that would:

1. Require a balanced federal budget;
2. Prohibit the imposition of unfunded federal mandates;
3. Require the federal courts to render enforceable decisions in cases or controversies arising under the 10th Amendment;
4. Give a super-majority of the states the power to initiate constitutional amendments and repeal improper federal legislation, subject to veto by a super-majority of the United States Congress;
5. Provide other safeguards against unwarranted federal intrusion into the affairs of the sovereign states and their local subdivisions; and

WHEREAS, as a sovereign government under the Constitution of the United States, the Commonwealth of Virginia has not only the right but also the duty to defend the prerogatives of the people of Virginia against federal government excesses; and

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WHEREAS, the Commonwealth of Virginia currently is attempting to enforce the 10th Amendment rights of its citizens through appropriate litigation; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That Congress be urged to observe the principles of federalism as required by the 10th Amendment to the Constitution of the United States. The Commonwealth of Virginia hereby assert its sovereignty under the 10th Amendment to the Constitution of the United States over all powers neither prohibited to the Commonwealth of Virginia nor enumerated and granted to the federal government by the Constitution of the United States; and, be it

RESOLVED FURTHER, That this resolution serve as notice and demand to the federal government to cease and desist immediately the imposition and enforcement of mandates that are beyond the scope of its constitutionally delegated powers; and, be it

RESOLVED FURTHER, That the General Assembly of Virginia endorse and support the efforts of the Governor and other representatives of the people of Virginia, including the members of the United States Congress, to secure adherence to and enforcement of the 10th Amendment rights of the Commonwealth of Virginia and its citizens and to secure structural changes at the federal level that will restore the states as full partners in a federal system of shared powers and dual sovereignty; and, be it

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