

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 64

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS AND URGING CONGRESS TO INITIATE THE ARTICLE V AMENDMENT
PROCESS TO AMEND THE TENTH AMENDMENT AND INTERSTATE COMMERCE CLAUSE OF
THE UNITED STATES CONSTITUTION.

Be It Resolved by the Legislature of the State of Idaho:

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 to the Constitution 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 the 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, today, in 2010, the states are demonstrably treated as agents of the federal government; and

WHEREAS, many powers assumed by the federal government and federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the Interstate Commerce Clause to the Constitution of the United States provides that Congress shall have the power: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"; and

WHEREAS, the Interstate Commerce Clause is limited to the federal government regulating trade between the states, and between the states and other nations, and to help prevent conflicts between states over commercial activities, and to prevent the erection of barriers to commerce between the states; and

WHEREAS, the Interstate Commerce Clause should not be used to provide Congress with authority to regulate matters that are primarily intrastate with only an insignificant or collateral effect upon interstate commerce; and

WHEREAS, many federal laws are beyond the original scope and intent of the Interstate Commerce Clause and 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 in the union of states, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Section 4, Article IV, of the Constitution says, "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 Consti-

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

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

6 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
7 sion of the Sixtieth Legislature Idaho Legislature, the House of Representa-
8 tives and the Senate concurring therein, that:

9 The Idaho Legislature urges Congress to take action forthwith to ini-
10 tiate the Article V amendment process to amend the Tenth Amendment and Inter-
11 state Commerce Clause (Section 8, Article I) of the United States Constitu-
12 tion; and

13 The Idaho Legislature urges Congress to amend the Tenth Amendment of
14 the United States Constitution as follows:

15 (Changes in **bold**): "The powers not **expressly** delegated to the United
16 States by the Constitution, nor prohibited by it to the States, are re-
17 served to the States respectively, or to the people. **Any power claimed**
18 **by the Congress shall be construed narrowly by all courts so as not to**
19 **infringe upon or limit the powers reserved to the States and the people**
20 **by this amendment.**"; and

21 That the Idaho Legislature urges Congress to amend the Interstate Com-
22 merce Clause (Article I, Section 8) as follows:

23 (Changes in **bold**): "To **directly** regulate Commerce with the foreign
24 nations, and among the several States, and with the Indian Tribes,
25 **with no authority in Congress to regulate matters that are primarily**
26 **intrastate with only an insignificant or collateral effect upon inter-**
27 **state commerce**".

28 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representa-
29 tives be, and she is hereby authorized and directed to forward a copy of this
30 Resolution to the Speaker of the House of Representatives and the President
31 of the Senate of the Congress of the United States, the presiding officers of
32 both Houses of the Legislature of each of our sister states in the Union, and
33 the members of the congressional delegation representing the State of Idaho
34 in the Congress of the United States.