
HOUSE JOINT MEMORIAL 4007

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Shea, Taylor, Condotta, Klippert, Kristiansen, and McCune

Read first time 02/14/11. Referred to Committee on State Government & Tribal Affairs.

1 TO THE HONORABLE BARACK OBAMA, PRESIDENT OF THE UNITED STATES, AND
2 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
4 UNITED STATES, IN CONGRESS ASSEMBLED, AND TO THE PRESIDENT OF THE
5 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF EACH STATE
6 LEGISLATURE IN THE UNITED STATES OF AMERICA:

7 WHEREAS, The individual states composing the United States of
8 America are not united on the principle of unlimited submission to
9 their general government. They constitute a general government for
10 specific purposes and delegate to that government certain definite
11 powers, reserving to each state those powers not delegated to the
12 United States for their own self-government; and

13 WHEREAS, When the general government assumes undelegated powers,
14 its acts are unauthoritative, void, and of no force; and

15 WHEREAS, That the federal government created by the Constitution
16 was not made the exclusive or final judge of the extent of the powers
17 delegated to itself, but that each state has an equal right and duty
18 under Article VI of the Constitution to judge for itself whether the
19 powers delegated have been surpassed; and

1 WHEREAS, The recent construction applied by the federal government
2 through the courts to those parts of the Constitution of the United
3 States that delegate to Congress a power "to lay and collect taxes,
4 duties, imports, and excises, to pay the debts, and provide for the
5 common defense and general welfare of the United States," and "to make
6 all laws which shall be necessary and proper for carrying into
7 execution, the powers vested by the Constitution in the government of
8 the United States, or in any department or officer thereof," destroys
9 all limits on its power established by the Constitution. These words
10 meant by the instrument to be subsidiary only to the execution of
11 limited powers ought not to be construed to give unlimited powers nor
12 parts thereof to be interpreted in a manner to destroy the limits of
13 the Constitution; and

14 WHEREAS, The preamble to the Bill of Rights reaffirms that the
15 federal government is one of limited powers created by the states as an
16 agent thereof, "the States having at the time of their adopting the
17 Constitution, expressed a desire, in order to prevent misconstruction
18 or abuse of its powers, that further declaratory and restrictive
19 clauses should be added"; and

20 WHEREAS, It is true as a general principle and declared under the
21 Tenth Amendment to the Constitution of the United States that, "The
22 powers not delegated to the United States by the Constitution, nor
23 prohibited by it to the States, are reserved to the States
24 respectively, or to the people."; and

25 WHEREAS, The Tenth Amendment defines the total scope of federal
26 power as being those powers specifically granted to it by the
27 Constitution of the United States and no more; and

28 WHEREAS, Federalism is the constitutional division of powers
29 between the national and state governments into a system of dual
30 sovereignty and is widely regarded as one of America's most valuable
31 contributions to political science; and

32 WHEREAS, James Madison, "the father of the Constitution," said,
33 "The powers delegated to the federal government are few and defined.
34 Those which are to remain in the state governments are numerous and
35 indefinite. The former will be exercised principally on external
36 objects, [such] as war, peace, negotiation, and foreign commerce. The
37 powers reserved to the several states will extend to all the objects

1 which, in the ordinary course of affairs, concern the lives, liberties,
2 and properties of the people"; and

3 WHEREAS, Thomas Jefferson emphasized that the states are not
4 "subordinate" to the national government, but rather the two are
5 "coordinate departments of one simple and integral whole. The one is
6 the domestic, the other the foreign branch of the same government.";
7 and

8 WHEREAS, Alexander Hamilton expressed his hope that "the people
9 will always take care to preserve the constitutional equilibrium
10 between the general and the state governments." He believed that "this
11 balance between the national and state governments forms a double
12 security to the people. If one [government] encroaches on their
13 rights, they will find a powerful protection in the other. Indeed,
14 they will both be prevented from overpassing their constitutional
15 limits by [the] certain rivalship which will ever subsist between
16 them."; and

17 WHEREAS, The United States Supreme Court has ruled in *New York v.*
18 *United States*, 505 U.S. 144 (1992) and *Printz v. United States*, 521
19 U.S. 898 (1997) that "the Federal Government may not compel the States
20 to enact or administer a federal regulatory program," nor commandeer
21 the legislative and regulatory processes of the states; and

22 WHEREAS, Today, in 2011, the states are demonstrably treated as
23 agents of the federal government; and

24 WHEREAS, Many federal mandates are directly in violation of the
25 Constitution of the United States; and

26 WHEREAS, A number of proposals from previous administrations and
27 some now being considered by the present administration and Congress
28 may further violate the Constitution of the United States;

29 NOW, THEREFORE, Your Memorialists respectfully:

30 (1) Proclaim that the State of Washington hereby reclaims
31 sovereignty under the Tenth Amendment to the Constitution of the United
32 States over all powers not otherwise enumerated and granted to the
33 federal government by the Constitution of the United States; and

34 (2) Pray that the federal government maintain the balance of powers
35 the Constitution of the United States has established and immediately
36 cease and desist, forthwith, any and all mandates that are beyond the
37 scope of its constitutionally delegated powers.

1 BE IT RESOLVED, That copies of this Memorial be immediately
2 transmitted to the Honorable Barack Obama, President of the United
3 States, the President of the Senate and the Speaker of the House of
4 Representatives of each state legislature in the United States of
5 America, the President of the United States Senate, the Speaker of the
6 House of Representatives, and each member of Congress from the State of
7 Washington.

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