Model Tenth Amendment Resolution for State Legislatures

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, today, in 2009, the states 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 in the Union of States, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Article IV, Section 4 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 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, 112 S. Ct. 2408 (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 some now pending from the present administration and from Congress may further violate the Constitution of the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE [ ] LEGISLATURE:

THAT the State of [ ] 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.

THAT this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers.

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 be prohibited or repealed.

THAT a copy of this resolution be distributed to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and each member of the [ ] Congressional Delegation.