

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE RESOLUTION 849

Sponsors: Representatives Cleveland, Justice, Blackwood, Hilton (Primary Sponsors); Avila, Blust, Brown, Burr, Burris-Floyd, Current, Dockham, Dollar, Folwell, Frye, Guice, Holloway, Howard, Hurley, Killian, Langdon, McCormick, McElraft, Mills, Moore, Neumann, Randleman, Sager, Starnes, Stevens, Tillis, and Wiley.

Referred to: Rules, Calendar, and Operations of the House.

March 30, 2009

1 A HOUSE RESOLUTION SUPPORTING THE STATE'S RIGHT TO CLAIM
2 SOVEREIGNTY OVER CERTAIN POWERS UNDER THE TENTH AMENDMENT TO
3 THE CONSTITUTION OF THE UNITED STATES.

4 Whereas, the Tenth Amendment to the Constitution of the United States reads as
5 follows: "The powers not delegated to the United States by the constitution, nor prohibited by it
6 to the states, are reserved to the states, respectively, or to the people;" and

7 Whereas, the Tenth Amendment defines the total scope of federal power as being
8 that specifically granted by the Constitution of the United States and no more; and

9 Whereas, the scope of power defined by the Tenth Amendment means that the
10 federal government was created by the states specifically to be an agent of the states; and

11 Whereas, today, in 2009, the states are demonstrably treated as agents of the federal
12 government; and

13 Whereas, many federal mandates are directly in violation of the Tenth Amendment
14 to the Constitution of the United States; and

15 Whereas, Section 4 of Article IV of the Constitution of the United States says, "The
16 United States shall guarantee to every state in this union a republican form of government," and
17 the Ninth Amendment states that "The enumeration in the constitution of certain rights, shall
18 not be construed to deny or disparage others retained by the people;" and

19 Whereas, the United States Supreme Court ruled in New York v. United States, 112
20 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory
21 processes of the states; and

22 Whereas, a number of proposals from previous administrations and some now
23 pending from the present administration and from Congress may further violate the
24 Constitution of the United States; Now, therefore,

25 Be it resolved by the House of Representatives:

26 **SECTION 1.** The North Carolina House of Representatives supports the State's
27 right to claim sovereignty under the Tenth Amendment to the Constitution of the United States
28 over all powers not otherwise enumerated and granted to the federal government or reserved to
29 the people by the Constitution of the United States.

30 **SECTION 2.** The North Carolina House of Representatives urges the federal
31 government, as the agent of the State, to cease and desist, effective immediately, mandates that
32 are beyond the scope of any constitutionally delegated powers.



1 **SECTION 3.** The North Carolina House of Representatives further urges that
2 compulsory federal legislation which directs states to comply under threat of civil or criminal
3 penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited
4 or repealed.

5 **SECTION 4.** The Principal Clerk shall transmit a certified copy of this resolution
6 to the President of the United States, the President of the United States Senate, the Speaker of
7 the United States House of Representatives, and each member of the North Carolina
8 Congressional Delegation.

9 **SECTION 5.** This resolution is effective upon adoption.