

**Concurrent Resolution Supporting Federalism
Principles and Utah's Control of its Energy Future**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This resolution reaffirms Utah's sovereignty under the principle of federalism and asserts the state's right to determine its own energy policies.

Highlighted Provisions:

This resolution:

- reiterates the powers afforded to states under the United States Constitution and its protections against federal overreach;
- affirms that the authority to determine energy policies affecting state residents is among the powers reserved to states under the Tenth Amendment;
- explains the significance of the United States Supreme Court's "Loper Bright" decision in preserving federalism;
- asserts Utah's right to play a primary role in determining energy policies within its borders;
- urges the federal government to limit its role in energy regulation to matters of interstate commerce and national security;
- requests meaningful consultation between federal agencies and states when developing energy-related policies; and
- calls for formal mechanisms for state input in federal energy policy decisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Tenth Amendment to the United States Constitution reserves powers not delegated to the federal government to the states or to the people;

WHEREAS, as the United States Supreme Court once explained, the Tenth Amendment serves to "allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers";

WHEREAS, these reserved powers encompass the authority to regulate matters directly affecting the well-being, health, and safety of state residents;

WHEREAS, the Tenth Amendment is the cornerstone of constitutional federalism and acts as a bulwark against federal intrusion on state authority and individual liberty;

WHEREAS, the federal government is a government of limited jurisdiction and powers;

WHEREAS, energy policy fundamentally impacts the economic prosperity, public health, environmental quality, and overall quality of life within each state;

WHEREAS, the regulation of energy production, distribution, and use plays a significant role in shaping land use, local economic development, and the protection of natural resources;

WHEREAS, states have direct knowledge of the local geography, resources, economic needs, and environmental concerns;

WHEREAS, this local expertise enables the states to make better informed decisions regarding the regulation of energy production, distribution, and consumption within their jurisdiction;

WHEREAS, federal energy policies and regulations have increasingly encroached upon these traditional areas of state authority;

WHEREAS, the United States Supreme Court recently reinforced the principle of federalism in *Loper Bright Enterprises v. Raimondo* (the "Loper Bright" decision);

WHEREAS, the Loper Bright decision eliminated the Chevron doctrine, a longstanding precedent that required courts to defer to a federal agency's interpretation of law and resulted in arbitrary and unchecked federal rulemaking;

WHEREAS, the federalism canon, as acknowledged by the United States Supreme Court in the Loper Bright decision, requires courts to presume that federal law does not preempt state law because of the sovereignty states enjoy under the United States Constitution;

WHEREAS, effective energy policy requires balancing national interests with state and local concerns; and

WHEREAS, a cooperative approach between federal and state governments can lead to more effective and tailored energy policies:

61 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
62 Governor concurring therein:

63 (1) reaffirms Utah's sovereignty under the Tenth Amendment to the United States
64 Constitution and pledges to safeguard the state's sovereignty from unconstitutional federal
65 overreach;

66 (2) affirms that the authority to determine energy policies substantially affecting the
67 well-being of state residents is among the powers reserved to the states under the Tenth
68 Amendment;

69 (3) recognizes the significance of the Loper Bright decision in preventing unjustified
70 intrusions into state sovereignty and urges state agencies to review the federal regulations
71 impacting the state to ensure those regulations are lawfully authorized;

72 (4) asserts Utah's right to play a primary role in determining energy policies within its
73 borders, including decisions regarding energy resources and infrastructure;

74 (5) calls upon the federal government to recognize states' constitutional authority and
75 superior positioning to make location-specific decisions about energy projects and to defer to
76 states on such matters;

77 (6) urges the federal government to limit its role in energy regulation to matters of interstate
78 commerce and national security, while respecting states' authority to govern intrastate energy
79 matters;

80 (7) requests that federal agencies engage in meaningful, early, and ongoing consultation
81 with states when developing energy-related policies or regulations that may affect state
82 interests;

83 (8) encourages Congress to pass legislation requiring federal agencies to demonstrate that
84 they have adequately consulted with and considered input from affected states before
85 implementing any energy-related regulations;

86 (9) calls for the creation of formal mechanisms for state input in federal energy policy
87 decisions; and

88 (10) calls on the federal government to reign in its regulatory apparatus and uphold the
89 balance of powers where the Constitution of the United States established it.

90 BE IT FURTHER RESOLVED that the Legislature directs that copies of this resolution be
91 sent to the President of the United States, the Majority and Minority Leaders of the United
92 States Senate, the Speaker and Minority Leader of the United States House of Representatives,
93 and the members of Utah's congressional delegation.