

Wayne A. Harper proposes the following substitute bill:

**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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

61 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the

Governor concurring therein:

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

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

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

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

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

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

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

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

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

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

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