1 **CONCURRENT RESOLUTION ON STATES'**

2 **RIGHTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Julie Fisher**

6 Senate Sponsor: David P. Hinkins

7	Cosponsors:	James A. Dunnigan	Steven R. Mascaro
8	Sheryl L. Allen	Gage Froerer	Stephen E. Sandstrom
9	Roger E. Barrus	Christopher N. Herrod	C. Brent Wallis
10	Ron Bigelow	Gregory H. Hughes	Ryan D. Wilcox
11	Jim Bird	Bradley G. Last	Carl Wimmer
12	Stephen D. Clark		

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14 **LONG TITLE**

15 **General Description:**

16   This concurrent resolution of the Legislature and the Governor strongly urges the

17 federal government and United States Congress to repeal and prohibit regulations and

18 laws that do or would infringe upon the rights of states under the Tenth Amendment to

19 the United States Constitution.

20 **Highlighted Provisions:**

21   This resolution:

22   ▸   claims state sovereignty under the Tenth Amendment to the United States

23 Constitution over certain powers;

24   ▸   rejects interpretations of the Tenth Amendment to the United States Constitution,

25 alone or in combination with other portions of the Constitution, that would dilute

26 the plain intent of the Tenth Amendment;

27   ▸   strongly urges the United States Congress and the federal government to repeal

28 regulations and laws that infringe upon the rights of states under the Tenth

29 Amendment; and

30   ▸   strongly urges the United States Congress and the federal government to prohibit

31   future regulations and laws from infringing upon the rights of states under the Tenth

32   Amendment.

33   **Special Clauses:**

34   None

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

37   WHEREAS, the Tenth Amendment to the United States Constitution reads as follows:

38   "The powers not delegated to the United States by the Constitution, nor prohibited by it to the

39   States, are reserved to the States respectively, or to the people";

40   WHEREAS, the Tenth Amendment defines the total scope of federal power as being

41   that specifically granted by the United States Constitution and no more;

42   WHEREAS, the scope of power defined by the Tenth Amendment means that the

43   federal government was created by the states specifically to be an agent of the states;

44   WHEREAS, the Tenth Amendment was clearly intended as a limitation on the powers

45   and growth of the federal government;

46   WHEREAS, today the states are demonstrably treated as agents of the federal

47   government;

48   WHEREAS, many federal laws are directly in violation of the Tenth Amendment to the

49   United States Constitution;

50   WHEREAS, the Tenth Amendment assures that we, the people of the United States of

51   America and each sovereign state in the Union of States, now have, and have always had,

52   rights the federal government may not usurp;

53   WHEREAS, the Tenth Amendment to the United States Constitution should be

54   preserved rather than have its plain meaning neutralized or obscured;

55   WHEREAS, the Commerce Clause in the United States Constitution, Article 1, Section

56   8, Clause 3, states that Congress has the power to regulate commerce with foreign nations,

57   among the states, and with the Native American tribes;

58   WHEREAS, Article 1, Section 8, Clause 18, the "Necessary and Proper Clause," of the

59 United States Constitution declares that Congress has the power "To make all Laws which

60 shall be necessary and proper for carrying into Execution the foregoing Powers, and all other

61 Powers vested by this Constitution in the Government of the United States, or in any

62 Department or Officer thereof";

63   WHEREAS, this clause is often paired with the Commerce Clause to take a broad,

64 expansive perspective of congressional powers;

65   WHEREAS, however, the Commerce Clause, in combination with the Necessary and

66 Proper Clause, is often interpreted so broadly as to eliminate the effect of the Tenth

67 Amendment's limitations on the powers and growth of the federal government;

68   WHEREAS, Section 4, Article IV, of the Constitution states, "The United States shall

69 guarantee to every State in this Union a Republican Form of Government," and the Ninth

70 Amendment states that "The enumeration in the Constitution, of certain rights, shall not be

71 construed to deny or disparage others retained by the people";

72   WHEREAS, the United States Supreme Court has ruled in New York v. United States,

73 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and

74 regulatory processes of the states; and

75   WHEREAS, a number of proposals from previous administrations and others now

76 pending from the present administration and from Congress may further violate the

77 Constitution of the United States:

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

79 Governor concurring therein, claim sovereignty under the Tenth Amendment to the United

80 States Constitution over all powers not otherwise enumerated and granted to the federal

81 government by the Constitution of the United States.

82   BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the

83 federal government and the United States Congress to immediately cease and desist the

84 issuance of mandates and laws that are beyond the scope of these constitutionally delegated

85 powers.

86   BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the

87   federal government and the United States Congress to repeal existing regulations and laws that

88   direct states to comply under threat of civil or criminal penalties or sanctions or that require

89   states to pass legislation or lose federal funding.

90   BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of

91   the United States, the Majority Leader of the United States Senate, the Speaker of the United

92   States House of Representatives, the Speaker of the House and the President of the Senate of

93   each state's legislature of the United States of America, and to the members of Utah's

94   congressional delegation.