

Representative Julie Fisher proposes the following substitute bill:

CONCURRENT RESOLUTION ON STATES'

RIGHTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor strongly urges the federal government and United States Congress to repeal and prohibit regulations and laws that do or would infringe upon the rights of states under the Tenth Amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

- ▶ claims state sovereignty under the Tenth Amendment to the United States Constitution over certain powers;
- ▶ rejects interpretations of the Tenth Amendment to the United States Constitution, alone or in combination with other portions of the Constitution, that would dilute the plain intent of the Tenth Amendment;
- ▶ strongly urges the United States Congress and the federal government to repeal regulations and laws that infringe upon the rights of states under the Tenth Amendment; and
- ▶ strongly urges the United States Congress and the federal government to prohibit future regulations and laws from infringing upon the rights of states under the Tenth



26 Amendment.

27 **Special Clauses:**

28 None

29

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

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

32 "The powers not delegated to the United States by the Constitution, nor prohibited by it to the
33 States, are reserved to the States respectively, or to the people";

34 WHEREAS, the Tenth Amendment defines the total scope of federal power as being
35 that specifically granted by the United States Constitution and no more;

36 WHEREAS, the scope of power defined by the Tenth Amendment means that the
37 federal government was created by the states specifically to be an agent of the states;

38 WHEREAS, the Tenth Amendment was clearly intended as a limitation on the powers
39 and growth of the federal government;

40 WHEREAS, today the states are demonstrably treated as agents of the federal
41 government;

42 WHEREAS, many federal laws are directly in violation of the Tenth Amendment to the
43 United States Constitution;

44 WHEREAS, the Tenth Amendment assures that we, the people of the United States of
45 America and each sovereign state in the Union of States, now have, and have always had,
46 rights the federal government may not usurp;

47 WHEREAS, the Tenth Amendment to the United States Constitution should be
48 preserved rather than have its plain meaning neutralized or obscured;

49 WHEREAS, the Commerce Clause in the United States Constitution, Article 1, Section
50 8, Clause 3, states that Congress has the power to regulate commerce with foreign nations,
51 among the states, and with the Native American tribes;

52 WHEREAS, Article 1, Section 8, Clause 18, the "Necessary and Proper Clause," of the
53 United States Constitution declares that Congress has the power "To make all Laws which shall
54 be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers
55 vested by this Constitution in the Government of the United States, or in any Department or
56 Officer thereof";

57 WHEREAS, this clause is often paired with the Commerce Clause to take a broad,
58 expansive perspective of congressional powers;

59 WHEREAS, however, the Commerce Clause, in combination with the Necessary and
60 Proper Clause, is often interpreted so broadly as to eliminate the effect of the Tenth
61 Amendment's limitations on the powers and growth of the federal government;

62 WHEREAS, Section 4, Article IV, of the Constitution states, "The United States shall
63 guarantee to every State in this Union a Republican Form of Government," and the Ninth
64 Amendment states that "The enumeration in the Constitution, of certain rights, shall not be
65 construed to deny or disparage others retained by the people";

66 WHEREAS, The United States Supreme Court has ruled in *New York v. United States*,
67 112 S. Ct. 2408 (1992), that congress may not simply commandeer the legislative and
68 regulatory processes of the states; and

69 WHEREAS, a number of proposals from previous administrations and others now
70 pending from the present administration and from congress may further violate the Constitution
71 of the United States:

72 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
73 Governor concurring therein, claim sovereignty under the Tenth Amendment to the United
74 States Constitution over all powers not otherwise enumerated and granted to the federal
75 government by the Constitution of the United States.

76 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
77 federal government and the United States Congress to immediately cease and desist the
78 issuance of mandates and laws that are beyond the scope of these constitutionally delegated
79 powers.

80 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
81 federal government and the United States Congress to repeal existing regulations and laws that
82 direct states to comply under threat of civil or criminal penalties or sanctions or that require
83 states to pass legislation or lose federal funding.

84 BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of
85 the United States, the Majority Leader of the United States Senate, the Speaker of the United
86 States House of Representatives, the Speaker of the House and the President of the Senate of
87 each state's legislature of the United States of America, and to the members of Utah's

88 congressional delegation.

H.C.R. 2 1st Sub. (Buff) - Concurrent Resolution on States' Rights

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
