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STATE SOVEREIGNTY CONCURRENT

RESOLUTION

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Carl Wimmer

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor reaffirms the sovereignty of the state of Utah under the Tenth Amendment of the United States Constitution.

Highlighted Provisions:

This resolution:

▶ reaffirms the state of Utah's residuary and inviolable sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States; and

▶ strongly urges that all compulsory federal legislation that directs states to comply under threat of civil or criminal penalty or sanction or that requires states to enact legislation or lose federal funding be prohibited or repealed.

Special Clauses:

None

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

WHEREAS, the Tenth Amendment to the Constitution of the United States reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States,



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

29 WHEREAS, the Tenth Amendment defines the total scope of federal power as being
30 that specifically granted to the federal government by the Constitution of the United States and
31 no more;

32 ~~H→ [WHEREAS, the scope of power defined by the Tenth Amendment signifies that the~~
33 ~~federal government was created by the states specifically to be an agent of the states;] ←H~~

34 WHEREAS, the states are often treated as agents of the federal government;

35 WHEREAS, many federal laws directly contravene the Tenth Amendment;

36 WHEREAS, it is important that all levels of government work together to serve the
37 citizens of the United States by respecting the constitutional provisions that properly delineate
38 the authority of federal, state, and local governments;

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

42 WHEREAS, Article IV, Section 4 of the United States Constitution declares in part,
43 "The United States shall guarantee to every State in this Union a Republican Form of
44 Government," and the Ninth Amendment to the United States Constitution further declares that
45 "The enumeration in the Constitution, of certain rights, shall not be construed to deny or
46 disparage others retained by the people";

47 WHEREAS, the United States Supreme Court ruled in New York v. United States, 505
48 U.S. 144 (1992), that Congress may not simply commandeer the legislative and regulatory
49 processes of the states by compelling them to enact and enforce regulatory programs;

50 WHEREAS, the United States Supreme Court, in Printz v. United States/Mack v.
51 United States, 521 U.S. 898 (1997), reaffirmed that the Constitution of the United States
52 established a system of "dual sovereignty" that retains "a residuary and inviolable sovereignty"
53 by the states;

54 WHEREAS, this separation of the two spheres is one of the Constitution's structural
55 protections of liberty; and

56 WHEREAS, a number of proposals by previous administrations, some now pending
57 proposals by the present administration, and some proposals by Congress may further violate
58 the Tenth Amendment restriction on the scope of federal power:

59 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
60 Governor concurring therein, acknowledge and reaffirm residuary and inviolable sovereignty of
61 the state of Utah under the Tenth Amendment to the Constitution of the United States over all
62 powers not otherwise enumerated and granted to the federal government by the Constitution of
63 the United States.

64 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
65 United States Congress to prohibit or repeal all compulsory federal legislation that directs
66 states to comply under threat of civil or criminal penalty or sanction or that requires states to
67 enact legislation or lose federal funding.

68 BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of
69 the United States, the Majority Leader of the United States Senate, the Speaker of the United
70 States House of Representatives, the President of the Senate of each state's legislature, and to
71 the members of Utah's congressional delegation.

Legislative Review Note
as of 11-30-09 7:15 AM

Office of Legislative Research and General Counsel

S.C.R. 3 - State Sovereignty Concurrent Resolution

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.
