

1 **JOINT RESOLUTION - STATE**
2 **SOVEREIGNTY AND TENTH AMENDMENT**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Howard A. Stephenson**

6 House Sponsor: Carl Wimmer

7
8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature strongly urges Congress and the President to
11 refrain from exercising authority related to the individual states beyond that granted by
12 the states in the Constitution of the United States and declares the state's sovereignty
13 under the Tenth Amendment to the Constitution.

14 **Highlighted Provisions:**

15 This resolution:

16 ▶ strongly urges the United States Congress to refrain from passing, and the President
17 of the United States to refrain from issuing, any law or executive order that violates
18 the United States Constitution;

19 ▶ strongly urges the United States Congress and the President of the United States to
20 repeal any current law or executive order that violates the United States
21 Constitution;

22 ▶ strongly urges the federal government to refrain from entering into any treaty that
23 conflicts with any provision of either the United States Constitution or the Utah
24 State Constitution or that abridges the rights of the people as expressed in the
25 United States Constitution;

26 ▶ strongly urges the United States Congress to prohibit or repeal any compulsory
27 federal law that directs states to comply under threat of civil or criminal penalties or



28 sanctions or requires states to pass legislation or lose federal funding;

29 ▶ strongly urges the federal government, as the agent of the people of the state, to
30 immediately cease and desist issuing mandates that are beyond the scope of
31 constitutionally delegated powers;

32 ▶ strongly urges all other states to join in a commitment to confine federal power to
33 its constitutional limitations and restore the powers of the people and of the states;

34 and

35 ▶ declares sovereignty under the Tenth Amendment to the Constitution of the United
36 States over all powers not otherwise enumerated and granted to the federal
37 government by the Constitution of the United States.

38 **Special Clauses:**

39 None



41 *Be it resolved by the Legislature of the state of Utah:*

42 WHEREAS, the people of the state of Utah hold "these truths to be self-evident -- that
43 all people are created equal, that they are endowed by their Creator with certain unalienable
44 rights, that among these are life, liberty and the pursuit of happiness -- and that to secure these
45 rights, governments are instituted among people, deriving their just powers from the consent of
46 the governed";

47 WHEREAS, in 1787, the several states united in a republic and created the Constitution
48 of the United States as a framework for a general government;

49 WHEREAS, the framers of the Constitution proclaimed the scope of that government to
50 be one "whose powers were to be few and defined. Those which are to remain in the State
51 governments are numerous and indefinite . . . The powers reserved to the several States will
52 extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and
53 properties of the people, and the internal order, improvement, and prosperity of the State";

54 WHEREAS, the protection of those powers of the states was carefully enumerated in
55 amendments to the United States Constitution;

56 WHEREAS, in 1896, Utah entered into statehood by a contract between Utah and the
57 several states, with Congress and the President concurring and acting as the agent for the states;

58 WHEREAS, in so doing, Utah became a free, sovereign, and independent body politic

59 by the name of the state of Utah;

60 WHEREAS, the Constitution of the state of Utah affirms without exception the
61 Constitution of the United States to be the supreme law of the land;

62 WHEREAS, the Ninth Amendment to the Constitution of the United States declares
63 "The enumeration in the Constitution of certain rights shall not be construed to deny or
64 disparage others retained by the people;"

65 WHEREAS, the Tenth Amendment to the Constitution of the United States declares:
66 "The powers not delegated to the United States by the Constitution, nor prohibited by it to the
67 states, are reserved to the states respectively, or to the people;"

68 WHEREAS, together, the Ninth and Tenth Amendments to the Constitution of the
69 United States, define the total scope of federal power as being that granted by the Constitution
70 of the United States and no more, with all others being retained or reserved to the states, or to
71 the people;

72 WHEREAS, today, a number of proposals and mandates have been issued to the states
73 by the federal government that substantially exceed the intent of those few, defined, and limited
74 powers enumerated in the Constitution of the United States;

75 WHEREAS, since the people were bestowed by their Creator with unalienable rights
76 and the people in turn created government to help secure and safeguard those rights, the people
77 are superior to government and remain the master over it;

78 WHEREAS, the people from the several states created the federal government, the
79 federal government did not create the people or the states, and therefore it cannot exceed the
80 authority given it by the people or the states;

81 WHEREAS, by ratifying the United States Constitution and Bill of Rights, the several
82 states created a general government for special purposes and delegated to that government
83 certain powers, while reserving all other powers;

84 WHEREAS, the Constitution of the United States is the people's document that
85 delegates powers to the federal government, and there is no power granted to the legislative,
86 executive, or judicial branches of government to delegate to others either the powers granted
87 therein or to assume or delegate powers not granted by the Constitution;

88 WHEREAS, to delegate powers to the federal government independent of the
89 Constitution of the United States is usurpation of the people's powers;

90 WHEREAS, the federal government has exceeded its enumerated powers, and many
91 federal laws are in violation of the Tenth Amendment to the Constitution of the United States;

92 WHEREAS, on February 16, 2007, the people of the state of Utah took the position that
93 "in opposition to the Jeffersonian principles of individual liberty, free markets, and limited
94 government . . . the REAL ID Act wrongly coerces states into doing the federal government's
95 bidding by threatening to refuse non-complying states' citizens the privileges and immunities
96 enjoyed by other states' citizens;"

97 WHEREAS, the Legislature rejected the federally mandated Real ID Act as an
98 unwarranted assumption of federal power and as an unacceptable incursion into the right to
99 privacy that the people of Utah have reserved to themselves in the Utah Constitution;

100 WHEREAS, the federal government's unrestrained exercise of those portions of the
101 United States Constitution that delegate to Congress a power "to lay and collect taxes, duties,
102 imposts, and excises to pay the debts and provide for the common defense and general welfare
103 of the United States" and "to make all laws which shall be necessary and proper" to regulate
104 "commerce among the states" has served to destroy the intent of the limits of power imposed
105 on Congress by its creators, the States of the Republic;

106 WHEREAS, the people of Utah and all other states have a right **Ŝ→ under rule of law ←Ŝ**
106a to ignore or reject all

107 unwarranted assumptions of power by other entities within and without its boundaries;

108 WHEREAS, without this right, states would become mere administrative subdivisions
109 of their intended servant, the federal government that the states created;

110 WHEREAS, if Utah accepts these inappropriate applications of power and continues to
111 allow Congress to exercise unbridled authority, it surrenders its own form of government, its
112 sovereign power, and its responsibility to its citizens;

113 WHEREAS, any act by the Congress of the United States, Executive Order of the
114 President of the United States, or Judicial Order of the United States that assumes a power not
115 delegated by the United States Constitution is a breach of the United States Constitution by the
116 government of the United States, which would also breach the fundamental relationship
117 between the creator, the state, and the federal government; and

118 WHEREAS, acts that would cause this type of breach include: (a) establishing martial
119 law or a state of emergency within a state without the consent of the state; (b) moving federal
120 military personnel or units into a state without the consent of the state or with the intent to

121 enforce federal laws or to assert the supremacy of the federal government; (c) requiring
122 involuntary servitude or governmental service other than a draft during a declared war or
123 pursuant to or as an alternative to incarceration after due process of law; (d) requiring
124 involuntary servitude or governmental service of persons under the age of 18 years, other than
125 pursuant to or as an alternative to incarceration after due process of law; (e) any act regarding
126 religion, further limitations on freedom of speech, or further limitations on freedom of the
127 press; (f) any act infringing on the right to keep and bear arms, including prohibitions of type or
128 quantity of arms or ammunition; and (g) surrendering any power delegated or not delegated to
129 any corporation or foreign government:

130 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
131 strongly urges the United States Congress to refrain from passing, and the President of the
132 United States to refrain from issuing, any law or executive order that goes beyond the
133 reservations expressed in this resolution, as those laws or executive orders would be a breach
134 of the Constitution of the United States.

135 BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges
136 the United States Congress and the President of the United States to repeal any law or
137 executive order currently in effect that goes beyond the reservations expressed in this
138 resolution, as those laws and executive orders are a breach of the Constitution of the United
139 States.

140 BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges
141 the federal government to refrain from entering into any treaty that conflicts with any provision
142 of either the United States Constitution or the Utah State Constitution or that abridges the
143 rights of the people as expressed in the United States Constitution.

144 BE IT FURTHER RESOLVED that the Legislature strongly urges the United States
145 Congress to prohibit or repeal any compulsory federal law that directs states to comply under
146 threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose
147 federal funding.

148 BE IT FURTHER RESOLVED that the Legislature of the state of Utah, as an agent of
149 the people of the state, strongly urges the federal government, to immediately cease and desist
150 issuing mandates that are beyond the scope of constitutionally delegated powers.

151 BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges

152 all other states to join in a commitment to confine federal power to its constitutional limitations
153 and restore the powers of the people and of the states.

154 BE IT FURTHER RESOLVED that the Legislature of the state of Utah declares
155 sovereignty under the Tenth Amendment to the Constitution of the United States over all
156 powers not otherwise enumerated and granted to the federal government by the Constitution of
157 the United States.

158 BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of
159 the United States, to the members of the United States Congress, and to the states and
160 territories of the United States.

Legislative Review Note
as of 9-29-09 9:29 AM

Office of Legislative Research and General Counsel

S.J.R. 6 - Joint Resolution - State Sovereignty and Tenth Amendment

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.
