

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

**STATE SOVEREIGNTY CONCURRENT
RESOLUTION
2010 GENERAL SESSION
STATE OF UTAH**

Chief Sponsor: J. Stuart Adams

House Sponsor: Carl Wimmer

Cosponsors:	David P. Hinkins	Howard A. Stephenson
Curtis S. Bramble	Scott K. Jenkins	Jerry W. Stevenson
D. Chris Buttars	Peter C. Knudson	Dennis E. Stowell
Allen M. Christensen	Daniel R. Liljenquist	Stephen H. Urquhart
Margaret Dayton	Mark B. Madsen	John L. Valentine
Jon J. Greiner	Wayne L. Niederhauser	Michael G. Waddoups
Lyle W. Hillyard	Ralph Okerlund	

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or criminal penalty or sanction or that requires states to enact legislation or lose federal funding be prohibited or repealed.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

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

33 WHEREAS, the Tenth Amendment to the Constitution of the United States reads: "The
34 powers not delegated to the United States by the Constitution, nor prohibited by it to the
35 States, are reserved to the States respectively, or to the people";

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

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

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

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

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

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

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

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

59 WHEREAS, this separation of the two spheres is one of the Constitution's structural

60 protections of liberty; and

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

64 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
65 Governor concurring therein, acknowledge and reaffirm residuary and inviolable sovereignty
66 of the state of Utah under the Tenth Amendment to the Constitution of the United States over
67 all powers not otherwise enumerated and granted to the federal government by the
68 Constitution of the United States.

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

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