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

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

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Jon J. Greiner	Wayne L. Niederhauser	Michael G. Waddoups

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This resolution:

- ▶ strongly urges the United States Congress to refrain from passing, and the President of the United States to refrain from issuing, any law or executive order that violates the United States Constitution;
- ▶ strongly urges the United States Congress and the President of the United States to repeal any current law or executive order that violates the United States Constitution;
- ▶ strongly urges the federal government to refrain from entering into any treaty that conflicts with any provision of either the United States Constitution or the Utah State Constitution or that abridges the rights of the people as expressed in the

32 United States Constitution;

33       ▶ strongly urges the United States Congress to prohibit or repeal any compulsory  
34 federal law that directs states to comply under threat of civil or criminal penalties or  
35 sanctions or requires states to pass legislation or lose federal funding;

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

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

41 and

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

45 **Special Clauses:**

46       None



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

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

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

56       WHEREAS, the framers of the Constitution proclaimed the scope of that government  
57 to be one "whose powers were to be few and defined. Those which are to remain in the State  
58 governments are numerous and indefinite . . . The powers reserved to the several States will  
59 extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties,

60 and properties of the people, and the internal order, improvement, and prosperity of the State";

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

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

66 WHEREAS, in so doing, Utah became a free, sovereign, and independent body politic  
67 by the name of the state of Utah;

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

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

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

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

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

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

86 WHEREAS, the people from the several states created the federal government, the  
87 federal government did not create the people or the states, and therefore it cannot exceed the

88 authority given it by the people or the states;

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

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

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

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

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

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

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

114 WHEREAS, the people of Utah and all other states have a right under rule of law to  
115 ignore or reject all unwarranted assumptions of power by other entities within and without its

116 boundaries;

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

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

122 WHEREAS, any act by the Congress of the United States, Executive Order of the  
123 President of the United States, or Judicial Order of the United States that assumes a power not  
124 delegated by the United States Constitution is a breach of the United States Constitution by  
125 the government of the United States, which would also breach the fundamental relationship  
126 between the creator, the state, and the federal government; and

127 WHEREAS, acts that would cause this type of breach include: (a) establishing martial  
128 law or a state of emergency within a state without the consent of the state; (b) moving federal  
129 military personnel or units into a state without the consent of the state or with the intent to  
130 enforce federal laws or to assert the supremacy of the federal government; (c) requiring  
131 involuntary servitude or governmental service other than a draft during a declared war or  
132 pursuant to or as an alternative to incarceration after due process of law; (d) requiring  
133 involuntary servitude or governmental service of persons under the age of 18 years, other than  
134 pursuant to or as an alternative to incarceration after due process of law; (e) any act regarding  
135 religion, further limitations on freedom of speech, or further limitations on freedom of the  
136 press; (f) any act infringing on the right to keep and bear arms, including prohibitions of type  
137 or quantity of arms or ammunition; and (g) surrendering any power delegated or not delegated  
138 to any corporation or foreign government:

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

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

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

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

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

160 BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges  
161 all other states to join in a commitment to confine federal power to its constitutional  
162 limitations and restore the powers of the people and of the states.

163 BE IT FURTHER RESOLVED that the Legislature of the state of Utah declares  
164 sovereignty under the Tenth Amendment to the Constitution of the United States over all  
165 powers not otherwise enumerated and granted to the federal government by the Constitution of  
166 the United States.

167 BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of  
168 the United States, to the members of the United States Congress, and to the states and  
169 territories of the United States.