

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION AFFIRMING THE 10th AMENDMENT TO THE U.S. CONSTITUTION

Resolution Summary

The 10th amendment is made part of our constitution by the “Bill of Rights.” It is no coincidence that the issue of state sovereignty holds the same stature as the prohibition against self incrimination, the protection against unreasonable searches and seizures, freedom of speech, etc. The framers of our constitution saw the possibility of a federal government run amok and instituted the 10th amendment, among others, to provide specific limitations to protect the state and their citizens.

Modern laws and directives at the federal level, notably the Unfunded Mandate Reform Act of 1995¹, Presidential Executive Order 13132 (1999)² and the 2009 Presidential Memorandum, re: Preemption of State Law³, have sought to restore the constitutional balance of power within our federal system. Despite these actions, work remains if state and federal leaders are to gain not only an appropriate balance of power, but a truly cooperative and productive partnership in solving today’s far-reaching policy issues.

State leaders increasingly recognize that “one-size-fits-all” national policies do not accommodate the unique needs, cultural traditions and priorities of individual states, thereby stifling opportunities for innovative state-driven policy solutions. Several states, notably Alabama, Alaska, Idaho, Louisiana, North Dakota, Oklahoma, South Dakota and Tennessee, have passed resolutions asserting their states’ rights under the 10th Amendment. When combined with the 2009 legislative sessions, upwards of 40 states have now introduced resolutions or legislation seeking to curb federal mandates and assumption of powers.⁴

This policy resolution affirms the states’ sovereignty under the 10th Amendment and serves as an appeal for a continued and meaningful dialogue between federal and state officials on matters of common interest and seeks active collaboration on an intergovernmental basis.

¹ <http://www.govtrack.us/congress/bill.xpd?bill=s104-1>

² <http://www.epa.gov/fedreg/eo/eo13132.htm>

³ http://www.whitehouse.gov/the_press_office/Presidential-Memorandum-Regarding-Preemption

⁴ <http://www.tenthamentcenter.com/>

Additional Resource Information

- The 10th Amendment to the U.S. Constitution: Reserved Powers, Scope and Purpose, and Relevant Case Law. [Sponsored by the U.S. Senate and U.S. Government Printing Office.](#)
- [Tenth Amendment Center](#)

CSG Management Directives

- **Management Directive #1:** The Council of State Governments will affirm on behalf of its member states their sovereignty under the 10th Amendment and support continued and meaningful dialogue between federal and state officials on matters of common interest.
- **Management Directive #2:** The Council of State Governments will transmit a copy of this resolution to the executive and legislative leaders in each state so that they may contact their states' Congressional Delegation to emphasize the important role of the states in our federal system.
- **Management Directive #3:** The Council of State Governments will transmit a copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker and the Clerk of the United States House of Representatives and post a copy of this resolution on its Web-site.

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RESOLUTION AFFIRMING THE 10th AMENDMENT TO THE U.S. CONSTITUTION

WHEREAS, the 10th Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people";

WHEREAS, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states and it enjoys no more power than that granted to it by the Constitution;

WHEREAS, states acting under the authority granted to them by the 10th Amendment have the ability to create innovative policy strategies that accommodate the unique needs, cultural traditions and priorities of their jurisdictions;

WHEREAS, state governments are experiencing unprecedented shortfalls in revenue, and are generally bound by constitutional balanced budget requirements, thereby struggling to pay for their own policies and programs;

WHEREAS, despite the fiscal position of states and the articulated intent of the 10th Amendment, the federal government continues to impose unfunded mandates and preempt state sovereignty causing states to be treated as agents of the federal government; and

WHEREAS, recognizing the critical role that states play as laboratories of democracy, modern laws and directives at the federal level, notably President Obama's 2009 Presidential Memorandum, re: Preemption of State Law, have sought to restore the constitutional balance of power within the state-federal governing relationship.

NOW, THEREFORE BE IT RESOLVED, that The Council of State Governments affirms, on behalf of the states, their sovereignty under the 10th 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;

BE IT FURTHER RESOLVED, that The Council of State Governments urges federal agencies to closely adhere to the 2009 Presidential Memorandum, re: Preemption of State Law directing federal agencies to consider the impact of their decisions on the states;

BE IT FURTHER RESOLVED, that The Council of State Governments urges Congress to extend and enhance the scope of the Unfunded Mandate Reform Act to cover rule making actions of independent federal agencies as well as to include a careful examination of the costs imposed on states by partially funded mandates, such as those created by No Child Left Behind, as well as purely unfunded mandates;

BE IT FURTHER RESOLVED, that The Council of State Governments appeal for a continued and meaningful dialogue between federal and state officials on matters of common interest and seek active collaboration on an intergovernmental basis;

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the executive and legislative leadership of the states, urging them to contact their states' Congressional Delegation to emphasize the important role of the states in our federal system; and

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker and the Clerk of the United States House of Representatives.

Adopted this _____ Day of May, 2010 at CSG's 2010 Economic Summit of the States in New York City, NY.

Governor M. Michael Rounds, SD
CSG President

Senate President David L. Williams, KY
CSG Chairman