

## As Adopted by the House

132nd General Assembly

Regular Session

2017-2018

S. C. R. No. 23

Senators Obhof, Peterson

Cosponsors: Senators Balderson, Beagle, Coley, Gardner, Hackett, Hottinger, Huffman, Jordan, Manning, McColley, Oelslager, Uecker, Terhar, O'Brien, Burke, Dolan, Eklund, Hoagland, LaRose, Wilson Representatives Roegner, Becker, Merrin, Retherford, Young, Antani, Blessing, Brenner, Butler, Faber, Ginter, Green, Hagan, Hambley, Hood, Householder, Johnson, Lang, Pelanda, Riedel, Romanchuk, Schaffer, Scherer, Schuring, Seitz, Thompson, Speaker Smith

### A CONCURRENT RESOLUTION

To reassert the principles of federalism found throughout  
the Constitution of the United States of America and  
embodied in the Tenth Amendment, to notify Congress to  
limit and end certain mandates, and to insist that  
federal legislation contravening the Tenth Amendment  
be prohibited or repealed.

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### BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO (THE HOUSE OF REPRESENTATIVES CONCURRING):

WHEREAS, "It is incontestible that the Constitution  
established a system of 'dual sovereignty,'" *Printz v. United*  
*States*, 521 U.S. 898, 918 (1997); and

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WHEREAS, The powers delegated to the federal government  
"are few and defined" (Federalist No. 45) and "its jurisdiction  
extends to certain enumerated objects only" (Federalist No. 39);  
and

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WHEREAS, The Constitution "leaves to the several States a

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residuary and inviolable sovereignty" (Federalist No. 39) and 15  
the powers retained by State governments are "numerous and 16  
indefinite" (Federalist No. 45); and 17

WHEREAS, By dividing government "into distinct and separate 18  
departments," allotting different powers and responsibilities to 19  
each, the Constitution protects "the rights of the People" 20  
(Federalist No. 51); and 21

WHEREAS, The United States Supreme Court, in *Printz v.* 22  
*United States*, 521 U.S. 898 (1997), recognized that "This 23  
separation of the two spheres is one of the Constitution's 24  
structural protections of liberty. 'Just as the separation and 25  
independence of the coordinate branches of the Federal 26  
Government serve to prevent the accumulation of excessive power 27  
in any one branch, a healthy balance of power between the States 28  
and the Federal Government will reduce the risk of tyranny and 29  
abuse from either front'" (521 U.S. at 921); and 30

WHEREAS, The Tenth Amendment to the United States 31  
Constitution states, "The powers not delegated to the United 32  
States by the Constitution, nor prohibited by it to the States, 33  
are reserved to the States respectively, or to the people"; and 34

WHEREAS, The Tenth Amendment defines the scope of federal 35  
power as being that specifically granted to the federal 36  
government by the Constitution; and 37

WHEREAS, The Ninth Amendment to the Constitution of the 38  
United States states that, "The enumeration in the Constitution, 39  
of certain rights, shall not be construed to deny or disparage 40  
others retained by the people"; and 41

WHEREAS, We believe in the importance of all levels of 42  
government working together to serve the citizens of our 43  
country, by respecting the constitutional provisions that 44  
properly delineate the authority of each respective level; and 45

WHEREAS, The Tenth Amendment assures that we, the people of 46  
the United States and each sovereign State in the Union of 47  
States, now have, and have always had, rights the federal 48  
government may not usurp; and 49

WHEREAS, The United States Supreme Court held in *New York* 50  
*v. United States*, 505 U.S. 144 (1992), that Congress may not 51  
simply commandeer the legislative and regulatory processes of 52  
the States by compelling them to enact and enforce regulatory 53  
programs; and 54

WHEREAS, The United States Supreme Court held in *United* 55  
*States v. Lopez*, 514 U.S. 549 (1995) that the scope of the 56  
federal government's power "must be considered in light of our 57  
dual system of government and may not be extended so as to ... 58  
effectively obliterate the distinction between what is national 59  
and what is local..." (514 U.S. at 557); and 60

WHEREAS, Certain enactments by the federal government 61  
exceed the scope of the federal government's enumerated powers, 62  
and intrude on areas traditionally left to the States; and 63

WHEREAS, Today, in 2018, the States are often treated as 64  
agents of the federal government, in contravention of the 65  
principles outlined above; and 66

WHEREAS, Certain federal laws contravene the Tenth 67  
Amendment to the Constitution of the United States; now 68  
therefore be it 69

RESOLVED, That the State of Ohio hereby acknowledges and 70  
reaffirms its residuary and inviolable sovereignty under the 71  
Tenth Amendment to the Constitution of the United States over 72  
all powers not otherwise enumerated and granted to the federal 73  
government by the Constitution of the United States; and be it 74  
further 75

RESOLVED, That this resolution serves as notice to the 76

federal government to end federal mandates that are beyond the 77  
scope of its constitutionally delegated powers; and be it 78  
further 79

RESOLVED, That compulsory federal legislation that directs 80  
States to comply under threat of civil or criminal penalty or 81  
sanction or that requires States to enact legislation or lose 82  
federal funding be prohibited or repealed; and be it further 83

RESOLVED, That the Clerk of the Senate transmit duly 84  
authenticated copies of this resolution to the President of the 85  
United States, the President Pro Tempore of the United States 86  
Senate, the Speaker of the United States House of 87  
Representatives, the Speaker of the House of Representatives and 88  
the President of the Senate of each state's legislature, and 89  
each member of the Ohio Congressional delegation. 90