

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and end certain mandates, and to insist that federal legislation contravening the Tenth Amendment be prohibited or repealed.

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

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

WHEREAS, The Constitution "leaves to the several States a residuary and inviolable sovereignty" (Federalist No. 39) and the powers retained by State governments are "numerous and indefinite" (Federalist No. 45); and

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

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

WHEREAS, The Tenth Amendment to the United States Constitution states, "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"; and

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

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

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

WHEREAS, The Tenth Amendment assures that we, the people of the United States and each sovereign State in the Union of States, now have, and have always had, rights the federal

government may not usurp; and

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

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

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

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

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

RESOLVED, That the State of Ohio hereby acknowledges and reaffirms its 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 be it further

RESOLVED, That this resolution serves as notice to the federal government to end federal mandates that are beyond the scope of its constitutionally delegated powers; and be it further

RESOLVED, That 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; and be it further

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Adopted _____, 20____