

RESOLUTION NO. 12-07-2009

**A RESOLUTION AFFIRMING STATES RIGHTS UNDER THE 10TH AMENDMENT
AND SUPPORT KY BR 54.**

WHEREAS, the 10th Amendment to the Constitution, specified in the Bill of Rights, was ratified on December 15, 1791 and 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 Federal government continues to infringe upon the dictates of the 10th Amendment and its counterpart, the 9th Amendment, which states "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. The Federal government has grown increasingly large and out of control, foisting an ever increasing number of unfunded mandates upon states and cities while continuing to pursue reckless, unsustainable spending policies that are shackling countless future generations to insurmountable debt all during the worst economic crisis since the Great Depression, and;

WHEREAS, the Federal government continues a decades long trend of expanding its control by exceeding the Constitutional authority that restrains it, and;

WHEREAS, many states are increasingly concerned about the ongoing centralization of power that usurps the authority clearly granted to the states in the Constitution, as amended, and the Bill of Rights, and;

WHEREAS, 35 states have introduced resolutions and seven states including Alaska, North Dakota, South Dakota, Idaho, Oklahoma, Louisiana and Tennessee have passed resolutions affirming the 10th Amendment, and;

WHEREAS, when states and local communities take the lead on policy and regulation, the people they represent are much closer to the policymakers, and policymakers are much more accountable to their constituents. While very few Americans have spoken with their president; many citizens have spoken with their mayor. It is much easier for citizens to have their voices heard and their opinions count when dealing with local government, and;

WHEREAS, Adherence to and promotion of the 10th Amendment is a major step towards the elimination of unfunded mandates, creeping centralization of power in the Federal government and the restoration of liberty in the United States through a return to local decision making, and;

WHEREAS, there have been two resolutions previously filed in the Kentucky legislature pertaining to 10th Amendment, HCR168 and HCR 172, and;

WHEREAS, Kentucky State Representative Stan Lee has filed resolution BR 54 on 06/02/2009, which states: "A CONCURRENT RESOLUTION claiming sovereignty over powers not granted to the federal government by the United States Constitution; serving notice to the Federal government to cease mandates beyond its authority; and stating Kentucky's position that Federal legislation that requires states to comply under threat of loss of Federal funding should be prohibited or repealed, and;

A CONCURRENT RESOLUTION claiming sovereignty over powers not granted to the federal government by the United States Constitution; serving notice to the federal government to cease mandates beyond its authority; and stating Kentucky's position that federal legislation that requires states to comply under threat of loss of federal funding should be prohibited or repealed.

WHEREAS, the Tenth Amendment to the Constitution of the United States provides that "The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people."; and

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

WHEREAS, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the state; and

WHEREAS, today, in 2010, the states are demonstrably treated as agents of the federal government; and

WHEREAS, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, Article IV, Section 4 of the United States Constitution states that "The United States shall guarantee to every State in this Union a Republican Form of Government..." and the Ninth Amendment of the United States Constitution 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, the United States Supreme Court has ruled 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; and

WHEREAS, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the