

**SECOND AMENDMENT PRESERVATION JOINT
RESOLUTION**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature affirms the Second Amendment to the United States Constitution and the legal primacy of the state of Utah over firearms regulation.

Highlighted Provisions:

This resolution:

▶ strongly urges each state to exercise its right and duty to declare unconstitutional, and to make null and void within its respective borders, any acts of the federal government that are not authorized by the Constitution of the United States;

▶ declares that it is the exclusive responsibility of the Legislature to adopt and enact any and all statutes, orders, rules, or regulations as necessary regarding the manufacture, transfer, possession, ownership, and use of firearms, firearm accessories, ammunition, and ammunition components within the state;

▶ declares that it is the responsibility of the Legislature to adopt and enact any and all measures necessary to prevent the enforcement of any federal statutes, orders, rules, or regulations in violation of the Second Amendment to the Constitution of the United States;

▶ declares that all statutes, orders, rules, and regulations enacted or authorized by the Legislature relating to the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, ammunition, or ammunition component exclusively within the



28 borders of Utah shall enjoy legal primacy within the state of Utah over any and all conflicting
29 federal statutes, orders, rules, or regulations;

30 ▶ declares that any state that does not act to protect the unalienable rights of its
31 citizens, including the unalienable right of self-preservation, violates the very
32 constitutional charter for which it was established by its citizens; and

33 ▶ declares that the state, including its many political subdivisions, is bound in law to
34 affirmatively act to protect the unalienable right of self-preservation of all of the
35 citizens, even against an interfering and intruding federal government, and that in
36 the exercise of this duty, the state of Utah will support all political subdivisions,
37 agencies, and their officers' performance of necessary actions to preserve, protect,
38 and defend the unalienable rights of their citizens, including the unalienable right of
39 self-preservation.

40 **Special Clauses:**

41 None



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

44 WHEREAS, governments are instituted among mankind to secure certain unalienable
45 rights, including life, liberty, and property, together with the right of self-preservation, which
46 includes the right to defend self, family, others, property, and the state;

47 WHEREAS, governments derive their just powers from the consent of the governed
48 through written constitutions by which the governed delegate specific enumerated powers to
49 governments with the expectation that governments may not exceed the powers so delegated;

50 WHEREAS, the Constitution of the United States creates a legal system unprecedented
51 in form and design--a compound republic where the power surrendered by the people is first
52 divided between two spheres of supremacy, establishing two distinct governments;

53 WHEREAS, each of these distinct governments, within its respective sphere, is not
54 subject to the authority of the other;

55 WHEREAS, the Constitution of the United States and the constitutions of each of the
56 fifty states contemplate that each state government will represent and remain accountable to its
57 own citizens;

58 WHEREAS, the Tenth Amendment to the Constitution of the United States codifies in

59 law that the only powers that the federal government may exercise are those that have been
60 delegated to it in the Constitution of the United States, guarantees to the states and their people
61 all powers not granted to the federal government elsewhere in the Constitution of the United
62 States, and guarantees to this state and to the people of this state certain powers as they were
63 understood at the time Utah was granted statehood in 1896;

64 WHEREAS, the guarantees made by the Tenth Amendment are a matter of contract
65 between the state and people of Utah and the United States as of the time that the compact with
66 the United States was agreed upon and adopted by Utah and the United States in 1894;

67 WHEREAS, the Ninth Amendment to the Constitution of the United States guarantees
68 to the people natural and fundamental rights not enumerated in the Constitution and reserves to
69 the people of Utah all rights as they were understood at the time Utah was granted statehood in
70 1896;

71 WHEREAS, the guaranty of those rights is also a matter of contract between the state
72 and people of Utah and the United States as of the time the compact with the United States was
73 agreed upon and adopted by Utah and the United States in 1894;

74 WHEREAS, the federal government is one of enumerated and limited powers and must
75 show that a constitutional grant of power authorizes each of its actions;

76 WHEREAS, as it was the intent of the Framers of the Constitution that powers, which
77 "in the ordinary course of affairs, concern the lives, liberties, and properties of the people" were
78 to be the jurisdiction of governments more local and more accountable to the people, the
79 general power of governing the health, safety, and welfare of the people, generally referred to
80 as the "police power," was reserved to the states and not delegated to the federal government;

81 WHEREAS, the right of the people of Utah to keep and bear arms is a matter of public
82 health and safety, subject to the exclusive police power of the state, and interference with this
83 right by the federal government is expressly prohibited by the Second Amendment to the
84 United States Constitution, which reads, "A well regulated militia being necessary to the
85 security of a free state, the right of the people to keep and bear arms shall not be infringed";

86 WHEREAS, the Second Amendment protects a fundamental individual right to own
87 and possess firearms, unconnected with an individual's service in a militia, together with the
88 right to use those arms for traditionally lawful purposes, such as self-defense;

89 WHEREAS, because the Second Amendment recognizes an individual right to own and

90 possess firearms, it also establishes a protectable liberty interest, the infringement of which
91 requires an extremely strong public-interest justification and a narrow fit between the
92 government's means and its end;

93 WHEREAS, federal acts, laws, orders, rules, or regulations that infringe upon this
94 fundamental right are an unconstitutional assumption of power that is the province of the states
95 or the people, and, as such, are a violation of the Second Amendment;

96 WHEREAS, Utah Constitution, Article I, Section 6, declares that "The individual right
97 of the people to keep and bear arms for security and defense of self, family, others, property, or
98 the state, as well as for other lawful purposes shall not be infringed," and reserves to the
99 Legislature of the state of Utah the exclusive authority to define the lawful use of arms;

100 WHEREAS, as separate and independent sovereigns, states stand as guardians of the
101 people's liberty;

102 WHEREAS, it is the duty of state legislatures to closely watch the operations of the
103 federal government and to erect barriers against the unconstitutional encroachments of federal
104 authority; and

105 WHEREAS, a frequent recurrence to the foregoing fundamental principles is essential
106 to the security of individual rights and the perpetuity of free government:

107 NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the state of Utah
108 strongly urges each state to exercise its right and duty to declare unconstitutional, and to make
109 null and void within its respective borders, any federal statutes, orders, rules, or regulations that
110 are not authorized by the Constitution of the United States.

111 BE IT FURTHER RESOLVED, that the Legislature of the state of Utah declares that it
112 is the exclusive duty of the Legislature to adopt and enact any and all statutes, orders, rules, or
113 regulations as necessary regarding the manufacture, transfer, possession, ownership, and use of
114 firearms, firearm accessories, ammunition, and ammunition components within this state.

115 BE IT FURTHER RESOLVED, that the Legislature declares that it is the duty of the
116 Legislature to adopt and enact any and all measures as necessary to prevent the enforcement of
117 any federal statutes, orders, rules, or regulations in violation of the Second Amendment to the
118 Constitution of the United States.

119 BE IT FURTHER RESOLVED, that the Legislature of the state of Utah declares that
120 all statutes, orders, rules, and regulations enacted or authorized by the Legislature relating to

121 the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, ammunition, or
122 ammunition component exclusively within the borders of Utah shall enjoy legal primacy within
123 the state of Utah over any and all conflicting federal statutes, orders, rules, or regulations.

124 BE IT FURTHER RESOLVED, that the Legislature of the state of Utah affirms that
125 any state that does not act to protect the unalienable rights of its citizens, including the
126 unalienable right of self-preservation, violates the very constitutional charter for which it was
127 established by its citizens;

128 BE IT FURTHER RESOLVED, that the Legislature of the state of Utah declares that
129 the state, including its many political subdivisions, is bound by law to affirmatively act to
130 protect the unalienable right of self-preservation of all the citizens, even against an interfering
131 and intruding federal government, and that in the exercise of this duty, the state of Utah will
132 support all political subdivisions, agencies, and their officers in their performance of necessary
133 actions to preserve, protect, and defend the unalienable rights of their citizens, including the
134 unalienable right of self-preservation.

135 BE IT FURTHER RESOLVED that copies of this resolution be sent to the United
136 States Department of Justice, the members of Utah's congressional delegation, and to the
137 governors of the 49 other states.

Legislative Review Note
as of 3-4-13 9:56 AM

Office of Legislative Research and General Counsel