CONCERNING THE STATE OF COLORADO'S SOVEREIGNTY UNDER THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, AND, IN CONNECTION THEREWITH, EXPRESSING OPPOSITION TO FEDERAL HEALTH CARE REFORM.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads: "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 provides that powers not granted to the federal government nor prohibited to the states are reserved to the states and to the people, limits the scope of federal power, and prescribes that the federal government was created by the states specifically to be an agent of the states; however, the states are currently treated as agents of the federal government; and

WHEREAS, In the American system, sovereignty is defined as the final authority, the people, not the government, are sovereign, and all power not delegated by the people to government is retained; and
WHEREAS, Powers have been exercised, past and present, by federal administrations, and under the leadership of both Democrats and Republicans, that infringe on the sovereignty of the people of this state in violation of the Constitution of the United States; and

WHEREAS, The United States Supreme Court has ruled that the United States Congress may not commandeer the legislative and regulatory processes of the states; and

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

WHEREAS, Because health care rights are not guaranteed or enumerated in the Constitution of the United States, decisions on how to best administer health care programs should be left to the individual states; and

WHEREAS, Under the Tenth Amendment to the Constitution of the United States, Colorado reserves the right not to be subjected to or required to participate in new proposed federal health legislation; and

WHEREAS, The "Patient Protection and Affordable Care Act" (PPACA), signed into law by President Obama on March 23, 2010, imposes an unprecedented mandate on United States citizens by requiring them to purchase individual health insurance; and

WHEREAS, Congress has never before imposed such a mandate on individuals to purchase a product or service, and this mandate exceeds the authority of the federal government; and

WHEREAS, The requirement that citizens purchase individual health insurance is a strained interpretation of the Commerce Clause, Article I, Section 8, Clause 3, of the United States Constitution; and

WHEREAS, Multiple lawsuits have been filed challenging the constitutionality of PPACA and the individual mandate, and two United States District Courts have ruled this mandate unconstitutional; and

PAGE 2-HOUSE RESOLUTION 11-1010
WHEREAS, On December 13, 2010, Judge Henry Hudson of the United States District Court for the Eastern District of Virginia, Richmond Division, found that Congress could not order individuals to purchase health insurance, stating in his 42-page opinion, "Neither the Supreme Court nor any federal circuit court of appeals has extended Commerce Clause powers to compel an individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market. In doing so, enactment of the [individual mandate] exceeds the Commerce Clause powers vested in Congress under Article I [of the Constitution]."; and

WHEREAS, On January 31, 2011, Judge Roger Vinson of the United States District Court for the Northern District of Florida, Pensacola Division, also ruled that the individual mandate is outside of Congressional authority and, therefore, outside of the powers of the Commerce Clause; and

WHEREAS, Judge Vinson stated in his opinion, "Regardless of how laudable its attempts may have been to accomplish these goals in passing the Act, Congress must operate within the bounds established by the Constitution. Again, this case is not about whether the Act is wise or unwise legislation. It is about the Constitutional role of the federal government."; and

WHEREAS, In light of these judicial findings, it is clear that Congress overstepped its authority when implementing the individual mandate; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-eighth General Assembly of the State of Colorado:

That we, the members of the Colorado House of Representatives:

(1) Call upon Congress to repeal the intrusive and unconstitutional individual mandate required by PPACA; and

(2) Strongly encourage Congress to recognize individual states' efforts to reform health care by grandfathering any state laws, regulations, or practices intended to contain costs, improve quality, increase consumerism, or otherwise implement health system reform concepts.

PAGE 3-HOUSE RESOLUTION 11-1010
Be It Further Resolved, That copies of this Resolution be sent to Governor John Hickenlooper; the Majority Leader of the United States Senate, Eric Cantor; the Speaker of the United States House of Representatives, John Boehner; the President of the United States, Barack Obama; and the members of Colorado's Congressional Delegation.

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES