

CONSTITUTIONAL AMENDMENT

4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN
5 AMENDMENT TO ARTICLE II, SECTION 2, OF THE MONTANA CONSTITUTION TO ALLOW REJECTION
6 OF FEDERAL MANDATES, ORDERS, DIRECTIONS, OR COMMANDS DERIVED FROM POWERS NOT
7 ENUMERATED IN OR OTHERWISE GRANTED BY THE UNITED STATES CONSTITUTION." *Jenks* *Beck* *Keith* *Anderson* *Bergman* *Bobbitt* *Wessman* *Cobb* *Task* *Leating* *Terry* *Bennett* *Treat*

2 WHEREAS, the 10th amendment defines the total scope of federal power over states emanating
3 from the United States Constitution as being only that specifically granted by the United States
4 Constitution; and

15 WHEREAS, the scope of power defined by the 10th amendment means that the federal government
16 was created by the people specifically to be an agent of the states; and

17 WHEREAS, in 1995, the states are demonstrably wrongfully treated as subservient agents of the

WHEREAS, many developments have occurred, in recent

WHEREAS, the United States Supreme Court in New York v. United States, 446 U.S. 61, 102 S. Ct. 1495, 75 L. Ed. 2d 63, held that the State of New York has the right to sue the United States for the return of the 100,000 acres of land which the State of New York has been holding in trust for the Oneida Indians since 1845.

21 (1932), held that Congress may not simply commandeer the legislative and regulatory processes of the
22 states; and

24 Legislative Branches of federal government have violated and may further violate the United States
25 Constitution.

2

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20



1 as a free, sovereign, and independent state. They may alter or abolish the constitution and form of
2 government whenever they deem it necessary.

3 (2) The essential prerequisite for the preservation of the right of self-government is the unequivocal
4 assertion of Montana's absolute protection from powers not delegated to the United States by the United
5 States constitution or prohibited from delegation to the states under the 10th amendment to the United
6 States constitution. The state of Montana has the right to reject any attempt by the federal government
7 to usurp the state's power by forced federal mandates, orders, directions, or commands derived from
8 powers not enumerated in or otherwise granted by the United States constitution, especially when
9 individual freedoms are affected or other constitutional protections are compromised."

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11 **NEW SECTION. Section 2. Submission to electorate.** This amendment shall be submitted to the
12 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
13 the full title of this act and the following:

14 FOR allowing rejection of federal mandates, orders, directions, or commands derived from
15 powers not enumerated in or otherwise granted by the United States constitution.
16 AGAINST allowing rejection of federal mandates, orders, directions, or commands derived
17 from powers not enumerated in or otherwise granted by the United States constitution.

18

19

-END-

1 SENATE BILL NO. 143
2 INTRODUCED BY BAER, KEENAN, HARP, CRIPPEN, MOHL, LYNCH, ORR, DEBRUYCKER, BRAINARD,
3 SLITER, KNOX, MILLS, GREEN, CURTISS, SPRAGUE, GRIMES, JORE, STORY, HOLLAND, MARSHALL,
4 SOFT, SIMON, BOHLINGER, WELLS, ROSE, COBB, ANDERSON, JENKINS, GROSFIELD, BENEDICT,
5 BERGMAN, HERTEL, B. BROWN, MURDOCK, REHBEIN, HARDING, WISEMAN, SWYSGOOD, L. SMITH,
6 WAGNER, HAYNE, HERRON, CLARK, GRADY, AHNER, SIMPKINS, STOVALL, VICK, ELLIS, FISHER,
7 SOMERVILLE, MCGEE, MCKEE, GRINDE, ARNOTT, BARNETT, MERCER, TVEIT, TOEWS, KEATING,
8 TASH, AKLESTAD, DEVLIN, HOLDEN, ESTRADA, BURNETT, EMERSON, MESAROS, BECK,
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14 ENUMERATED IN OR OTHERWISE GRANTED BY THE UNITED STATES CONSTITUTION."

16 WHEREAS, the 10th amendment to the United States Constitution provides, "The powers not
17 delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the
18 states respectively or to the people"; and

19 WHEREAS, the 10th amendment defines the total scope of federal power over states emanating
20 from the United States Constitution as being only that specifically granted by the United States
21 Constitution; and

22 WHEREAS, the scope of power defined by the 10th amendment means that the federal government
23 was created by the people specifically to be an agent of the states; and

24 WHEREAS, in 1995, the states are demonstrably wrongfully treated as subservient agents of the
25 federal government, with 10th amendment protection usurped; and

26 WHEREAS, many federal requirements are directly in violation of the 10th amendment; and

27 WHEREAS, the United States Supreme Court in New York v. United States, 112 S. Ct. 2408
28 (1992), held that Congress may not simply commandeer the legislative and regulatory processes of the
29 states; and

30 WHEREAS, a number of previous, pending, or proposed directives from the Executive and

1 Legislative Branches of federal government have violated and may further violate the United States
2 Constitution.

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4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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6 **Section 1.** Article II, section 2, of The Constitution of the State of Montana, is amended to read:

7 **"Section 2. Self-government.** (1) The people have the exclusive right of governing themselves
8 as a free, sovereign, and independent state. They may alter or abolish the constitution and form of
9 government whenever they deem it necessary.

10 (2) The essential prerequisite for the preservation of the right of self-government is the unequivocal
11 assertion of Montana's absolute protection from powers not delegated to the United States by the United
12 States constitution or prohibited from delegation to the states under the 10th amendment to the United
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16 individual freedoms are affected or other constitutional protections are compromised. IT IS THE DUTY OF
17 THE GOVERNOR AND THE LEGISLATURE TO TAKE ACTION TO PROTECT THE SOVEREIGN AUTHORITY
18 OF THE PEOPLE OF THE STATE OF MONTANA BY REJECTING WRONGFUL ACTIONS GOVERNED BY THIS
19 SUBSECTION, INCLUDING BUT NOT LIMITED TO FEDERAL MANDATES, ORDERS, DIRECTIONS, OR
20 COMMANDS DERIVED FROM POWERS NOT ENUMERATED IN OR SPECIFICALLY GRANTED TO THE
21 FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION, ESPECIALLY WHEN INDIVIDUAL
22 FREEDOMS ARE AFFECTED. THE STATE'S REJECTION MAY BE IN THE FORM OF A BILL, JOINT
23 RESOLUTION, OR EXECUTIVE ORDER."

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25 **NEW SECTION. Section 2. Submission to electorate.** This amendment shall be submitted to the
26 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
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SENATE BILL NO. 143

INTRODUCED BY BAER, KEENAN, HARP, CRIPPEN, MOHL, LYNCH, ORR, DEBRUYCKER, BRAINARD,
SLITER, KNOX, MILLS, GREEN, CURTISS, SPRAGUE, GRIMES, JORE, STORY, HOLLAND, MARSHALL,
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A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE II, SECTION 2, OF THE MONTANA CONSTITUTION TO ALLOW REJECTION OF FEDERAL MANDATES, ORDERS, DIRECTIONS, OR COMMANDS DERIVED FROM POWERS NOT ENUMERATED IN OR OTHERWISE GRANTED BY THE UNITED STATES CONSTITUTION."

WHEREAS, the 10th amendment to the United States Constitution provides, "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 10th amendment defines the total scope of federal power over states emanating from the United States Constitution as being only that specifically granted by the United States Constitution; and

WHEREAS, the scope of power defined by the 10th amendment means that the federal government was created by the people specifically to be an agent of the states; and

WHEREAS, in 1995, the states are demonstrably wrongfully treated as subservient agents of the federal government, with 10th amendment protection usurped; and

WHEREAS, many federal requirements are directly in violation of the 10th amendment; and

WHEREAS, the United States Supreme Court in *New York v. United States*, 112 S. Ct. 2408

(1992), held that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, a number of previous, pending, or proposed directives from the Executive and

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11 assertion of Montana's absolute protection from powers not delegated to the United States by the United
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18 OF THE PEOPLE OF THE STATE OF MONTANA BY REJECTING WRONGFUL ACTIONS GOVERNED BY THIS
19 SUBSECTION, INCLUDING BUT NOT LIMITED TO FEDERAL MANDATES, ORDERS, DIRECTIONS, OR
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21 FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION, ESPECIALLY WHEN INDIVIDUAL
22 FREEDOMS ARE AFFECTED. THE STATE'S REJECTION MAY BE IN THE FORM OF A BILL, JOINT
23 RESOLUTION, OR EXECUTIVE ORDER.

24 (3) THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW THE STATE TO VIOLATE CIVIL
25 RIGHTS ACCORDED ALL CITIZENS."

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28 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
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4 -END-

CONSTITUTIONAL AMENDMENT

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14 ENUMERATED IN OR OTHERWISE GRANTED BY THE UNITED STATES CONSTITUTION."

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16 WHEREAS, the 10th amendment to the United States Constitution provides, "The powers not
17 delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the
18 states respectively or to the people"; and

19 WHEREAS, the 10th amendment defines the total scope of federal power over states emanating
20 from the United States Constitution as being only that specifically granted by the United States
21 Constitution; and

22 WHEREAS, the scope of power defined by the 10th amendment means that the federal government
23 was created by the people specifically to be an agent of the states; and

24 WHEREAS, in 1995, the states are demonstrably wrongfully treated as subservient agents of the
25 federal government, with 10th amendment protection usurped; and

26 WHEREAS, many federal requirements are directly in violation of the 10th amendment; and

27 WHEREAS, the United States Supreme Court in New York v. United States, 112 S. Ct. 2408
28 (1992), held that Congress may not simply commandeer the legislative and regulatory processes of the
29 states; and

30 WHEREAS, a number of previous, pending, or proposed directives from the Executive and

SPONSORS ADDED



1 Legislative Branches of federal government have violated and may further violate the United States
2 Constitution.

3

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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6 **Section 1.** Article II, section 2, of The Constitution of the State of Montana, is amended to read:

7 **"Section 2. Self-government.** (1) The people have the exclusive right of governing themselves
8 as a free, sovereign, and independent state. They may alter or abolish the constitution and form of
9 government whenever they deem it necessary.

10 **(2) The essential prerequisite for the preservation of the right of self-government is the unequivocal**
11 **assertion of Montana's absolute protection from powers not delegated to the United States by the United**
12 **States constitution or prohibited from delegation to the states under the 10th amendment to the United**
13 **States constitution. The state of Montana has the right to reject any attempt by the federal government**
14 **to usurp the state's power by forced federal mandates, orders, directions, or commands derived from**
15 **powers not enumerated in or otherwise granted by the United States constitution, especially when**
16 **individual freedoms are affected or other constitutional protections are compromised. IT IS THE DUTY OF**
17 **THE GOVERNOR AND THE LEGISLATURE TO TAKE ACTION TO PROTECT THE SOVEREIGN AUTHORITY**
18 **OF THE PEOPLE OF THE STATE OF MONTANA BY REJECTING WRONGFUL ACTIONS GOVERNED BY THIS**
19 **SUBSECTION, INCLUDING BUT NOT LIMITED TO FEDERAL MANDATES, ORDERS, DIRECTIONS, OR**
20 **COMMANDS DERIVED FROM POWERS NOT ENUMERATED IN OR SPECIFICALLY GRANTED TO THE**
21 **FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION, ESPECIALLY WHEN INDIVIDUAL**
22 **FREEDOMS ARE AFFECTED. THE STATE'S REJECTION MAY BE IN THE FORM OF A BILL, JOINT**
23 **RESOLUTION, OR EXECUTIVE ORDER.**

24 **(3) THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW THE STATE TO VIOLATE CIVIL**
25 **RIGHTS ACCORDED ALL CITIZENS."**

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27 **NEW SECTION. Section 2. Submission to electorate.** This amendment shall be submitted to the
28 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
29 the full title of this act and the following:

30 **[:] FOR allowing rejection of federal mandates, orders, directions, or commands derived from**

1 powers not enumerated in or otherwise granted by the United States constitution.

2 AGAINST allowing rejection of federal mandates, orders, directions, or commands derived
3 from powers not enumerated in or otherwise granted by the United States constitution.

4 -END-



HOUSE STANDING COMMITTEE REPORT

March 23, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 143 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Keenan

And, that such amendments read:

1. Title, lines 12 and 13.

Strike: "ALLOW REJECTION OF"

Insert: "ASSERT MONTANA'S RIGHT TO REJECT"

2. Page 2, lines 16 through 22.

Strike: "IT IS" on line 16 through "AFFECTED." on line 22

Insert: "The state of Montana has the right to reject any attempt by the federal government to usurp the state's power by forced federal mandates, orders, directions, or commands derived from powers not enumerated in or otherwise granted by the United States constitution, especially when individual freedoms are affected or other constitutional protections are compromised."

3. Page 2, lines 24 and 25.

Strike: subsection (3) in its entirety

4. Page 2, line 30.

Page 3, line 2.

Strike: "allowing rejection of"

Insert: "asserting Montana's right to reject"

5. Page 3, lines 1 and 3.

Strike: "enumerated in or otherwise"

-END-

SB 143

Committee Vote:

Yes 12, No 6

HOUSE



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 143
Representative Boharski

March 29, 1995 8:16 am
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 143 (third reading copy -- blue).

Signed: Wm E Boharski
Representative Boharski

And, that such amendments to Senate Bill 143 read as follows:

1. Page 1, lines 24 and 25.
Strike: lines 24 and 25 in their entirety

-END-

ADOPT

SH-10

REJECT

SB 143

HOUSE

SENATE BILL NO. 143

INTRODUCED BY BAER, KEENAN, HARP, CRIPPEN, MOHL, LYNCH, ORR, DEBRUYCKER, BRAINARD,
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A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE II, SECTION 2, OF THE MONTANA CONSTITUTION TO ALLOW REJECTION OF ASSERT MONTANA'S RIGHT TO REJECT FEDERAL MANDATES, ORDERS, DIRECTIONS, OR COMMANDS DERIVED FROM POWERS NOT ENUMERATED IN OR OTHERWISE GRANTED BY THE UNITED STATES CONSTITUTION."

WHEREAS, the 10th amendment to the United States Constitution provides, "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 10th amendment defines the total scope of federal power over states emanating from the United States Constitution as being only that specifically granted by the United States Constitution; and

WHEREAS, the scope of power defined by the 10th amendment means that the federal government was created by the people specifically to be an agent of the states; and

WHEREAS, in 1995, the states are demonstrably wrongfully treated as subservient agents of the federal government, with 10th amendment protection usurped; and

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1 WHEREAS, a number of previous, pending, or proposed directives from the Executive and
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22 FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION, ESPECIALLY WHEN INDIVIDUAL
23 FREEDOMS ARE AFFECTED. THE STATE OF MONTANA HAS THE RIGHT TO REJECT ANY ATTEMPT BY
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30 RIGHTS ACCORDED ALL CITIZENS."

NEW SECTION. **Section 2. Submission to electorate.** This amendment shall be submitted to the electors of Montana at the general election to be held in November 1996 by printing on the ballot title of this act and the following:

FOR allowing rejection of ASSERTING MONTANA'S RIGHT TO REJECT federal mandates, orders, directions, or commands derived from powers not enumerated in or otherwise granted by the United States constitution.

AGAINST ~~allowing rejection of~~ ASSERTING MONTANA'S RIGHT TO REJECT federal mandates, orders, directions, or commands derived from powers not ~~enumerated in or otherwise granted by the United States constitution.~~

10

-END-