

REFERENCE TITLE: _____

STATE OF _____

_____ Legislature

_____ Session

2013

_____ :

Introduced by: _____

AN ACT

AN ACT PROHIBITING THE INFRINGEMENT OF THE CONSTITUTIONALLY
PROTECTED RIGHTS OF THE STATE OF _____, OR ITS PEOPLE,
VIA ANY FEDERAL ACT DEEMED BY THE STATE TO BE UNCONSTITUTIONAL.

WHEREAS, the State of _____ has a compelling interest as a sovereign state
of the United States of America in the proper implementation of protection and justice
within its borders, and it shall be enacted by the Legislature of the State of _____:

Section 1. Short title. [Sections 1 through 6] may be cited as the “ _____
Balance of Powers Act”.

Section 2. Legislative declarations of authority. The legislature declares that the authority for [sections 1 through 10] is the following:

(1) The tenth amendment to the United States Constitution guarantees and reserves to the states and the people, all powers not delegated to the federal government elsewhere in the Constitution as they were originally intended and publicly understood at the time that the amendment was ratified on December 15, 1791, and subject only to modifications by duly ratified via subsequent amendments to the United States Constitution. The guarantee of those powers is a matter of compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____.

(2) In accordance with the compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____, the Tenth Amendment to the United States Constitution reserves to the state and people of _____ that other than the enumerated powers expressly delegated to the United States under Article 1, Section 8 of the United States Constitution, Congress and the federal government is prohibited from exercising any purported additional control over, or commandeering rights belonging to the State of _____, or its people.

(3) The United States Constitution ratified on June 21, 1788, affirms that the sole and sovereign power to regulate the state business and affairs rested in the state legislature and has always been a compelling state concern and central to state sovereignty and security. Accordingly, the foregoing public meaning and understanding of Article 1 Section 8, the Establishment clause of the First Amendment and the Tenth Amendment of the United States Constitution is a matter of compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____. Further, the power to regulate commerce among the several states as delegated to the Congress in Article I, Section 8, Clause 3 of the

Constitution, as understood at the time of the founding, was meant to empower Congress to regulate the buying and selling of products made by others (and sometimes land), associated finance and financial instruments, and navigation and other carriage, across state jurisdictional lines. This power to regulate “commerce” does not include agriculture, manufacturing, mining, major crimes, or land use, nor does it include activities that merely “substantially affect” commerce.

(4) At the time the United States Constitution was ratified on June 21, 1788, the Commerce Clause was not meant or understood to authorize Congress, the Executive Branch or the Federal Judiciary to regulate the state courts in the matter of state substantive law or state judicial procedure. This meaning and understanding of Article 1 Section 8, the Establishment Clause of the First Amendment and the Tenth Amendment of the United States Constitution, as they pertain to the validity of religious sectarian or foreign law as being controlling or influential precedent has never been modified by any duly ratified amendment to the United States Constitution. Accordingly, the foregoing public meaning and understanding of Article 1 Section 8 and the Tenth Amendment of the United States Constitution is a matter of compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____.

Further, Article I, Section 8, Clause 18 of the Constitution, the “necessary and proper clause,” is not a blank check that empowers the federal government to do anything it deems necessary or proper. It is instead a limitation of power under the common-law doctrine of “principals and incidents,” which restricts the power of Congress to exercise incidental powers. There are two (2) main conditions required for something to be incidental, and therefore, “necessary and proper.” The law or power exercised must be 1) directly applicable to the main, enumerated power, and 2) it must be “lesser” than the main power.

(5) In accordance with Article I, Section 8, Clause 1 of the U.S. Constitution ratified on

June 21, 1788, the “general welfare clause,” does not empower the federal government with the ability to do anything it deems good. It is instead a general restriction limiting the exercise of the enumerated powers of Congress set forth in Article I, Section 8 of the Constitution of the United States, requiring that congress only enact laws which serve all citizens well and equally. When James Madison was asked if this clause were a grant of power, he replied “If not only the means but the objects are unlimited, the parchment [the Constitution] should be thrown into the fire at once.” Thus, we re-establish that this clause is a limitation on the power of the federal government to act in the welfare of all when passing laws in pursuance of the powers delegated to the United States, showing no favor to any race, creed, color or socio-economic class. Likewise, the Commerce Clause was not meant or understood to authorize Congress or the Federal Judiciary to establish religious, sectarian or foreign statutes or case law as controlling or influential precedent. Accordingly, the foregoing public meaning and understanding of Article 1 Section 8, the Establishment Clause of the First Amendment and the Tenth Amendment of the United States Constitution is a matter of compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____.

6) We acknowledge that the “Commerce Clause”, the “General Welfare Clause”, and the “Necessary and Proper Clause” of the United States Constitution were amended, and made more specific and limiting at the peoples’ insistence... through the creation of the Bill of Rights, i.e. the 2nd Amendment, the 9th Amendment and the 10th Amendment. All Amendments within the Bill of Rights were for the purpose of further restricting federal powers, vesting and/or retaining the ultimate power and control of the states by the people within the states. Therefore, we specifically reject and deny any federal claim of expanded and/or additional authority which the federal government may from time to time attempt to exert, exercise or enforce under these clauses, as these actions totally disrupt and degrade the Founders emphasis on the Balance of Powers.

Further, the people of the State of _____, are aware that the federal

government has amended and altered the spirit and the meaning of The Commerce Clause, all without proper legislative authority through amendment. Therefore, we reject and deny this unauthorized and excessive abuse of power which has primarily acted as a detriment to states' rights and individual rights, a deliberate attempt to negatively alter the Balance of Powers.

7) In accordance with the U.S. Constitution, Congress and the federal government is denied the power to establish or affect laws within the state which are repugnant and obtrusive to the U.S. Constitution, the State Constitution, state law and the citizens of the state. The Federal Government is restrained and confined in authority by the eighteen (18) items as set forth in Article I, Section 8 of the United States Constitution.

8) Congress and the federal government is hereby denied the power to bind the states under foreign statute, court order or opinion, or executive order, other than those provisions duly ratified by the Congress as a treaty, so long as the treaty does not violate the state or United States Constitution.

9) Further, no authority has ever been given to the Legislative Branch, the Executive Branch, or the Judicial Branch, of the federal government, to preempt state legislation, or to destroy the Balance of Powers, which is set forth in the United States Constitution.

10) This Act shall serve as a Notice and Demand to the Federal Government to cease and desist any and all activities outside the scope of their designated constitutionally enumerated powers, and, which attempt to diminish the Balance of Powers as established.

11) To enforce constitutional Balance of Powers, The Joint Legislative Committee on Neutralization of federal laws is established consisting of the President of the Senate or the President's designee, who serves as co-chairperson, six(6) members of the Senate who are appointed by the President of the Senate, the Speaker of the House of

Representatives or the Speaker's designee who serves as Co-chairperson, and six(6) members of the House of Representatives No more than four (4) members of the Senate and no more than four (4) members of the House of Representatives may be from the same political party. Members shall serve two (2) year terms beginning and ending on the convening of the regular session of the Legislature each odd-numbered year. Further, a majority of the members constitute a quorum for the transaction of business. The Committee shall meet on the call of either co-chairperson.

The Committee shall recommend, propose and call for a vote by simple majority to neutralize in its entirety a specific federal law or regulation that is outside the scope of the powers delegated by the people to the federal government in the United States Constitution. The Committee shall make its recommendation within thirty (30) days after receiving the federal legislation for consideration and process.

Further, the Committee may review any and all existing federal statutes, mandates and Executive orders for the purpose of determining the constitutionality. The said Committee may recommend for neutralization, existing federal statutes, mandates and Executive orders enacted before the effective date of this Section, if and when the Committee determines said measures to be beyond the scope and power assigned to the federal government under Article I of the U.S. Constitution, or in direct violation of the state constitution.

Upon the Committee's recommendation for neutralization, the Legislature shall vote on whether to neutralize the action within sixty (60) days after the Committee's said recommendation. Until the vote, the issue in question is of no effect. The appropriate documentation reflecting the Legislature's vote shall be documented in the Journals of the respective Houses.

In the event that the state legislature votes by simple majority to neutralize any federal statute, mandate or Executive order on the grounds of constitutionality, the state, nor its

citizens, shall recognize or be obligated to live under said statute, mandate or Executive order.

This Commission shall further be charged to communicate the intentions of this Act to the legislatures of the several states to assure that this State continues in the same esteem and friendship as currently exists, and, that it considers union for specific national purposes, and particularly those enumerated in the Constitution of the United States, to be friendly to the peace, happiness and prosperity of all the states.

Once this Act has been enacted, a certified copy of the same shall be sent to the President of the United States, the President of the Senate, the Speaker and Clerk of the House of Representatives, each member of the States' Congressional delegation, with the request that this Act be officially entered into the Congressional Record.

12) It is the duty of the legislature of this State to adopt and enact any and all measures that may become necessary to prevent the wrongful enforcement of any federal laws or regulations duly neutralized within the boundaries and limits of this State.

13) In accordance with Article 3, Section 2 of the U.S. Constitution, which states - In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court of the United States shall have Original Jurisdiction. In any cause of action between this State and the federal government regarding state neutralization of a federal legislation, judicial mandate or executive order, the proper jurisdiction for these disputes will lie with the Supreme Court of the United States alone. In the event of improper adjudication by the U.S. Supreme Court, the People's interest shall be maintained and retained through State referendum.

14) Under the Tenth Amendment, the people and state of _____ retain their exclusive power to regulate the state of _____, subject only to the fourteenth amendment's guarantee, that the people and state of _____ shall exercise such

sovereign power in accordance with each citizen's lawful privileges or immunities, and in compliance with the requirements of due process and equal protection of the law.

15) Whereas the ninth amendment to the United States Constitution secures and reserves to the people of _____, as against the federal government, their natural rights to life, liberty and property as entailed by the traditional Anglo-American conception of ordered liberty and as secured by state law, including, but not limited to, their rights as they were understood and secured by the law at the time that the amendment was ratified on December 15, 1791, as well as their rights as they were understood and secured by the law in the state of _____ at the time the _____ constitution was adopted on _____, the people and state hereby proclaim that the guarantee of those rights is a matter of compact between the state and people of _____ and the United States as of the time that _____ was admitted to statehood in _____.

Model State Legislation

Researched and prepared by The United States Patriots Union, LLC

The Constitutional Justice Division

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