

HOUSE BILL NO. HB0256

Wyoming sovereignty act.

Sponsored by: Representative(s) Wharff, Bear, Fortner, Hallinan, Haroldson, Heiner, Jennings, Laursen, Neiman, Ottman, Rodriguez-Williams, Styvar and Winter and Senator(s) Biteman and McKeown

A BILL

for

1 AN ACT relating to the administration of the government;
2 providing procedures to enforce the integrity of the United
3 States Constitution and to audit Wyoming's relationship
4 with the federal government in accordance with that
5 constitution; establishing the joint standing committee on
6 federalism; establishing procedures for declaration of
7 unconstitutional federal action; requiring all laws to
8 comply with the state and federal constitutions; and
9 providing for an effective date.

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11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 1-37-116, 9-14-103 and 28-11-801
14 through 28-11-806 are created to read:

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2 **1-37-116. Right of interested party to have**
3 **constitutional determination made.**

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5 (a) Any person interested in an unconstitutional
6 federal action as determined pursuant to W.S. 9-14-103 may
7 have any question of construction or validity arising under
8 the constitution determined and obtain a declaration of
9 rights, status or other legal relations.

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11 (b) Any district court in this state has original
12 jurisdiction of a proceeding seeking a declaratory
13 judgement that a federal action effective in this state is
14 an unconstitutional federal action.

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16 (c) In determining whether to grant declaratory
17 relief to a person under this section, a court:

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19 (i) May not rely solely on the decisions of
20 other courts interpreting the United States Constitution;
21 and

1 (ii) Shall rely on the plain meaning of the text
2 of the United States Constitutional doctrine as understood
3 by the framers of the constitution.

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5 **9-14-103. Compliance with constitutions.**

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7 (a) This act may be known and cited as the "Wyoming
8 Sovereignty Act."

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10 (b) All laws, including codified and noncodified
11 statutes, session laws, resolutions, rules, regulations,
12 decrees, orders and judgments, and any other dictate having
13 the force and effect of law shall comply with the
14 Constitution of the state of Wyoming and the Constitution
15 for the United States of America.

16

17 (c) The legislature of the state of Wyoming shall
18 review all roles, responsibilities and powers being
19 exercised by the government of the state of Wyoming to
20 confirm that the roles, responsibilities and powers are not
21 forbidden to the state government by the United States
22 Constitution. If any ruling, act, law, regulation, statute
23 or order is contrary to the Constitution these rulings,

1 acts, laws, regulations, statues or orders shall be
2 declared unconstitutional in the opinion of the
3 legislature.

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5 **28-11-801. Appointment of members.**

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7 (a) A joint standing committee on federalism shall be
8 appointed immediately after certification of the general
9 election subject to the following:

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11 (i) The president of the senate shall appoint
12 six (6) members of the senate apportioned as nearly as
13 possible to reflect the percentage of the elected
14 membership of the majority and minority parties of the
15 senate, provided not more than five (5) of the members
16 shall be from the same political party;

17

18 (ii) The speaker of the house of representatives
19 shall appoint six (6) members of the house apportioned as
20 nearly as possible to reflect the percentage of the elected
21 membership of the majority and minority parties of the
22 house, provided not more than five (5) of the members shall
23 be from the same political party.

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2 (b) The president of the senate and the speaker of
3 the house shall each designate a co-chairman. The committee
4 shall select two (2) vice chairmen from their members.

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6 **28-11-802. Committee powers and duties.**

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8 (a) The committee shall:

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10 (i) Review federal actions that may exceed the
11 enumerated powers in the United States Constitution or that
12 violate the sovereignty of the state or the people with the
13 purpose of determining if the federal action is
14 unconstitutional. The committee shall consider the plain
15 language of the United States Constitution and the original
16 intent in making a final declaration of constitutionality.
17 The committee may consider:

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19 (A) The ratifying debates in the several
20 states;

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22 (B) The understanding of the leading
23 participants at the constitutional convention;

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2 (C) The understanding of the doctrine in
3 question by the constitutions of the several states in
4 existence at the time the United States Constitution was
5 adopted;

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7 (D) The understanding of the United States
8 Constitution by the first United States Congress;

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10 (E) The opinions of the first Chief Justice
11 of the United States Supreme Court;

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13 (F) The background understanding of the
14 doctrine in question under the English Constitution at the
15 time;

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17 (G) The statements of support for natural
18 law and natural rights by the framers and the philosophers
19 referenced by them;

20

21 (H) Opinions and statements expressed in
22 the Federalist Papers.

23

1 (ii) Correspond with other states about any
2 federal action determined, in the opinion of the
3 legislature, to be unconstitutional with the goal of
4 coordinating a response;

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6 (iii) Individually reaffirm the oath of office
7 as follows: "I do solemnly swear (or affirm) that I will
8 support, obey and defend the constitution of the United
9 States, and the constitution of the state of Wyoming,
10 recognizing that both constitutions are contracts and must
11 be upheld based upon the understanding of the parties at
12 the time of their ratification or adoption and that I will
13 fulfill the duties of the Joint Standing Committee on
14 Federalism with fidelity and free from purposes of
15 evasion.";

16

17 (iv) Meet not less than one (1) time per week
18 during legislative sessions. A meeting of the committee
19 shall not be scheduled on any Friday upon adjournment for
20 the day. In addition, the committee shall meet every other
21 month over the interim between legislative sessions. A
22 majority of the members shall constitute a quorum;

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1 (v) Hold all meetings of the committee as public
2 meetings;

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4 (vi) Be staffed by the legislative service
5 office.

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7 **28-11-803. Scope of review.**

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9 (a) The committee shall report to and advise the
10 legislature on the following:

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12 (i) The constitutionality of federal mandates;

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14 (ii) Legal questions and policy issues
15 surrounding state and local government rights under RS2477;

16

17 (iii) Legal issues relating to school trust
18 lands, its beneficiaries and attendant rights of the state;

19

20 (iv) The advisability, feasibility, estimated
21 cost and likelihood of the success of challenging any
22 federal enactment the committee determines, in the opinion
23 of the legislature, to be unconstitutional;

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(v) Federal court rulings that:

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(A) Hinder the management of the state prison systems or place an additional financial burden on the state's finances;

(B) Diminish a right reserved to the state or its citizens by the United States Constitution, including amendments IX and X;

(C) Expand existing power or grant new powers to the United States government beyond the limited, enumerated powers provided in the United States Constitution.

(vi) Federal laws, rules or regulations that adversely affect water or property rights or the rights and interests of state and local governments, including sovereignty interests and the power to provide for the health, safety, and welfare, and promote the prosperity of the state's inhabitants;

1 (vii) Conflicting, duplicative or cumbersome
2 federal regulations or policies related to the management
3 of federal lands in the state. In reviewing actions under
4 this paragraph, the committee shall receive draft
5 environmental impact statements and assessments for any
6 federal proposed land management plan;

7

8 (viii) Federal intervention that would damage
9 the state's mining, timber, tourism, and ranching
10 industries;

11

12 (ix) The authority of the environmental
13 protection agency to mandate local air quality standards
14 and penalties;

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16 (x) Federal agency law enforcement within the
17 state;

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19 (xi) The possible loss of federal funds to the
20 state or the counties if a federal action is determined, in
21 the opinion of the legislature, to be unconstitutional;

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1 (xii) Entries in the Federal Register which may
2 impact the government of Wyoming or its residents;

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4 (xiii) Any other federal enactment likely to
5 have adverse impacts on the state.

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7 (b) If the committee, by a majority of all members
8 present from each house, voting separately, determines that
9 in the opinion of the legislature, a federal action is an
10 unconstitutional action, the committee shall report the
11 determination to the Wyoming senate and the house of
12 representatives during the current session of the
13 legislature, or the next regular or special session of the
14 legislature if the legislature is not convened when the
15 committee makes the determination.

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17 (c) Each house of the legislature shall vote on
18 whether, in the opinion of the legislature, the federal
19 action is unconstitutional. The determination shall be made
20 in the form of a bill which shall require an affirmative
21 vote of a majority of all the members elected to each
22 house. The bill shall then be presented to the governor,
23 and before it shall take effect be approved by him, or,

1 being disapproved, be repassed by two-thirds (2/3) of both
2 houses as prescribed in the case of a bill.

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4 **28-11-804. Coordination with the secretary of state.**

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6 Upon passage of the bill into law, the secretary of state
7 shall forward official copies of the declaration to the
8 President of the United States, the majority leader of the
9 United States Senate, the speaker of the United States
10 House of Representatives, and to all members of the Wyoming
11 delegation to Congress, with the request that the
12 legislative determination that the request that the
13 declaration of unconstitutional federal action be entered
14 in the Congressional Record.

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16 **28-11-805. Authority preserved; actions to be**
17 **declared unconstitutional; effect and state response.**

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19 (a) This act shall not be construed to limit or alter
20 the authority of an appropriate party from issuing a verbal
21 or written opinion determining a federal action to be
22 unconstitutional.

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1 (b) A federal action determined, in the opinion of
2 the legislature, to be an unconstitutional action, shall
3 have no legal effect in this state and shall not be
4 recognized by this state or a political subdivision of this
5 state as having legal effect.

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7 (c) Neither the state nor a political subdivision of
8 the state shall spend public money or resources or incur
9 public debt to implement or enforce a federal action
10 determined, in the opinion of the legislature, to be
11 unconstitutional.

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13 (d) A public officer authorized to enforce the laws
14 of this state, who has taken an oath to defend the United
15 States Constitution and the Constitution of the state of
16 Wyoming has a duty to enforce the laws of this state
17 against a person who attempts to implement or enforce a
18 federal action that, in the opinion of the legislature, is
19 unconstitutional.

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21 (e) This act does not prohibit a public officer who
22 has taken an oath to defend the United States Constitution
23 from interposing to stop acts of the federal government

1 which, in the officer's best understanding and judgement,
2 violate the United States Constitution.

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4 (f) Wyoming officials in federal, state and local
5 government shall honor their oaths to support, obey and
6 defend the United States Constitution and shall act in
7 accordance with the constitution at all times.

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9 **28-11-806. Authority of the attorney general.**

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11 (a) The attorney general may sue and defend the state
12 in an action to prevent the implementation and enforcement
13 of a federal action determined, in the opinion of the
14 legislature, to be unconstitutional.

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16 (b) The attorney general may initiate proceedings
17 against a person who attempts to implement or enforce a
18 federal action determined, in the opinion of the
19 legislature, to be unconstitutional.

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21 (c) The attorney general may appear before a grand
22 jury in connection with an offense the attorney general is
23 authorized to prosecute.

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2 (d) The authority to initiate proceedings prescribed
3 by this section does not affect the authority derived from
4 other law.

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6 **Section 2.** This act is effective immediately upon
7 completion of all acts necessary for a bill to become law
8 as provided by Article 4, Section 8 of the Wyoming
9 Constitution.

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(END)