

**House File 419 - Introduced**

HOUSE FILE 419

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**A BILL FOR**

1 An Act creating a tenth amendment commission under the  
2 legislative council and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 2E.1 Short title.

2 This chapter shall be known and may be cited as the "*Iowa*  
3 *Sovereignty Protection Act*".

4 Sec. 2. NEW SECTION. 2E.2 Definitions.

5 For the purposes of this chapter, unless the context  
6 otherwise requires:

7 1. "*Commission*" means the tenth amendment commission created  
8 in section 2E.5.

9 2. "*Government action*" means any act, order, law, statute,  
10 rule, regulation, or other action by a government including  
11 the legislative, executive, and judicial branches of the  
12 government. "*Government action*" includes a memorandum of  
13 agreement, memorandum of understanding, compact, or other  
14 similar binding agreement with the federal government, a  
15 government or nongovernmental organization, or a unit of state  
16 or local government located outside this state.

17 Sec. 3. NEW SECTION. 2E.3 Legislative findings.

18 The general assembly finds all of the following:

19 1. The Declaration of Independence declares that the  
20 colonies ought to be free and independent states.

21 2. The Declaration of Independence avers that the people of  
22 the United States have the right to alter or abolish any form  
23 of government which becomes destructive to the self-evident  
24 truths that all persons are created equal, that they are  
25 endowed by their creator with certain unalienable rights;  
26 that among these rights are life, liberty, and the pursuit of  
27 happiness.

28 3. The Constitution of the United States and the laws and  
29 treaties of the United States are the supreme law of the United  
30 States.

31 4. The Constitution of the United States enumerates certain  
32 specific powers delegated to the federal government.

33 5. The ninth amendment to the Constitution of the United  
34 States reads as follows: "The enumeration in the Constitution,  
35 of certain rights, shall not be construed to deny or disparage

1 others retained by the people.”

2 6. The tenth amendment to the Constitution of the United  
3 States reads as follows: “The powers not delegated to the  
4 United States by the Constitution, nor prohibited by it to the  
5 States, are reserved to the States respectively, or to the  
6 people.”

7 7. Article 4, section 4, of the Constitution of the United  
8 States reads, in part, as follows: “The United States shall  
9 guarantee to every State in this Union a Republican Form of  
10 Government”.

11 Sec. 4. NEW SECTION. **2E.4 Role of federal government**  
12 **relative to the states.**

13 The general assembly finds all of the following regarding  
14 the role of the federal government relative to the states:

15 1. The state of Iowa is not bound in unlimited submission  
16 to the federal government. Under the style and title of the  
17 Constitution of the United States, and of the amendments to  
18 that constitution, the states constituted a federal government  
19 for special purposes and delegated to that government certain  
20 definite powers while generally reserving to each state the  
21 right to self-government that is controlled by the people.

22 2. Whenever the federal government assumes powers not  
23 delegated to it by the states, the assumption of those powers  
24 should not be considered authoritative, but instead should  
25 be considered as void and having no force and effect. The  
26 Constitution of the United States provides a compact to which  
27 Iowa and each other state acceded as a state, and to which  
28 each is an integral party. The federal government created  
29 by this compact was not made the exclusive or final judge of  
30 the extent of the powers delegated to the federal government,  
31 since that conclusion would substitute the federal government’s  
32 judgment about those powers for the enumeration of powers in  
33 the Constitution of the United States. Instead, as in all  
34 other compacts between parties having no common judge, each  
35 party has an equal right to judge for itself whether there

1 is an infraction and the mode and measure of redress of the  
2 infraction.

3     Sec. 5. NEW SECTION.   **2E.5 Tenth amendment commission —**  
4 **membership.**

5     1. The tenth amendment commission is created under the  
6 control and supervision of the legislative council. The  
7 commission shall consist of the following members:

8     *a.* Five voting members of the senate, with three appointed  
9 by the majority leader of the senate and two appointed by the  
10 minority leader of the senate. The appointees shall include  
11 at least two members of the senate standing committee on  
12 judiciary. The majority leader, president, minority leader,  
13 assistant majority and minority leaders of the senate, and the  
14 president pro tempore of the senate shall not be appointed to  
15 the commission.

16     *b.* Five voting members of the house of representatives,  
17 with three appointed by the speaker and two appointed by  
18 the minority leader of the house of representatives. The  
19 appointees shall include at least two members of the house  
20 standing committee on judiciary. The speaker, majority leader,  
21 minority leader, assistant majority and minority leaders, and  
22 speaker pro tempore of the house of representatives shall not  
23 be appointed to the commission.

24     *c.* The governor and the attorney general shall each appoint  
25 one nonvoting member to attend commission meetings and provide  
26 insight and opinions from those offices.

27     2. The voting members of the commission shall serve for  
28 terms as provided in section 69.16B.

29     3. The commission shall elect from among its members a  
30 co-chairperson from each chamber who shall serve as commission  
31 chairperson on an alternating monthly basis, as well as other  
32 officers as the commission considers necessary or appropriate.  
33 The commission shall meet for at least ten regular monthly  
34 meetings per year. Either co-chairperson may call additional  
35 meetings.

1 4. Six or more voting members of the commission constitute  
2 a quorum for the transaction of business at a meeting of the  
3 commission. A majority of the voting members is required for  
4 official action of the commission. A member with unexcused  
5 absences for more than two regular meetings in one calendar  
6 year shall be replaced within thirty days of the third absence.

7 5. Members of the commission shall serve without payment  
8 of per diem. However, members of the commission may be  
9 reimbursed for reasonable and necessary expenses incurred in  
10 the performance of their official duties.

11 Sec. 6. NEW SECTION. **2E.6 Tenth amendment commission**  
12 **duties.**

13 1. The tenth amendment commission shall monitor and issue  
14 findings identifying federal government actions or proposed  
15 federal government actions affecting this state that require  
16 or would require this state or a state officer to execute  
17 or enforce a provision of federal law that violates the  
18 Constitution of the State of Iowa or that lies outside the  
19 federal government's enumerated powers under the Constitution  
20 of the United States and intrudes on the sovereignty reserved  
21 to the states by the ninth and tenth amendments of the  
22 Constitution of the United States, or that provides that the  
23 state of Iowa can be denied ordinarily available federal  
24 funding for not adopting certain laws or regulations.

25 2. If a government action is a memorandum of agreement,  
26 memorandum of understanding, compact, or other similar  
27 binding agreement with the federal government, a government  
28 or nongovernmental organization, or a unit of state or local  
29 government located outside this state, this state's party to  
30 the government action shall forward the document containing  
31 the terms of the government action to the commission. For  
32 such government actions entered into on or after the effective  
33 date of this Act, such documents shall be forwarded to the  
34 commission prior to the state action being finalized.

35 3. If a member of the general assembly who is not a

1 member of the commission obtains the signatures from at  
2 least one-third of the members from the member's chamber on a  
3 petition stating that a federal government action or pending  
4 federal government action should or could be identified in a  
5 finding by the commission as unconstitutional or should or  
6 could meet other criteria for a finding under subsection 1, the  
7 commission shall study the issue and determine whether or not  
8 to issue such a finding within ninety calendar days of the date  
9 the petition was received. A member of the general assembly  
10 shall not petition the commission in such a manner more than  
11 once per calendar year.

12 4. Approval of a finding issued under this section requires  
13 an affirmative vote by the majority of each chamber's voting  
14 members of the commission.

15 Sec. 7. NEW SECTION. **2E.7 Tenth amendment commission**  
16 **legislation.**

17 1. *a.* If at any time the commission issues a finding  
18 under section 2E.6, subject to the affirmative vote by the  
19 majority of each chamber's voting members, the commission shall  
20 introduce a joint resolution in the chamber selected by the  
21 commission to declare the government action described in the  
22 finding to be null and void and unenforceable as the government  
23 action applies to the state of Iowa.

24 *b.* The joint resolution shall not be referred to any  
25 committee of the general assembly but shall be considered by  
26 the chamber in which introduced with a record roll call vote  
27 within ten session days of introduction. However, if the joint  
28 resolution includes a determination that fewer than ten session  
29 days likely remain before adjournment sine die of the regular  
30 legislative session, the joint resolution shall be considered  
31 by the chamber in which introduced with a record roll call  
32 vote within five session days of introduction. If the general  
33 assembly is in extraordinary session, the commission shall  
34 identify a time and date for consideration of the joint  
35 resolution by both chambers and the joint resolution shall be

1 considered by the chamber in which introduced with a record  
2 roll call vote on or before the date and time identified.

3 c. Upon passage of the joint resolution by the originating  
4 chamber, the joint resolution shall be sent to the opposite  
5 chamber and shall be considered by a record roll call vote  
6 by the opposite chamber within ten session days of passage.  
7 However, if the joint resolution includes a determination that  
8 fewer than ten session days likely remain before adjournment  
9 sine die of the regular legislative session, the joint  
10 resolution shall be considered by the opposite chamber with  
11 a record roll call vote within five session days of passage  
12 by the originating chamber. If the general assembly is in  
13 extraordinary session, the joint resolution shall be considered  
14 by the opposite chamber with a record roll call vote on or  
15 before the date and time identified by the commission.

16 2. Enforcement of a joint resolution approved by the general  
17 assembly in accordance with this section may require action  
18 on the part of the attorney general. If requested by either  
19 chamber of the general assembly or the legislative council,  
20 the attorney general shall initiate action in any court of the  
21 United States or intervene and appear for the people of the  
22 state of Iowa to enforce the joint resolution.

23 3. A joint resolution approved by the general assembly  
24 in accordance with this section is not subject to approval  
25 or veto by the governor. The governor shall not issue an  
26 executive order overturning the joint resolution or executing  
27 or enforcing the federal law contrary to the provisions of the  
28 joint resolution.

29 Sec. 8. NEW SECTION. 2E.8 Tenth amendment commission —  
30 legislative process.

31 Nothing in this chapter shall be construed to prevent any  
32 member of the general assembly from introducing legislation on  
33 any issue within the purview of the general assembly.

34 Sec. 9. APPOINTMENT — INITIAL MEETING.

35 1. The members first appointed to the commission created by

1 this Act shall be appointed within thirty calendar days of the  
2 effective date of this Act.

3 2. The first meeting of the commission created by this  
4 Act shall be called by the majority leader of the senate and  
5 speaker of the house of representatives not later than sixty  
6 calendar days after the effective date of this Act.

7 Sec. 10. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
8 of immediate importance, takes effect upon enactment.

9

EXPLANATION

10 This bill creates a tenth amendment commission under the  
11 legislative council in new Code chapter 2E.

12 New Code section 2E.1 provides a short title for the  
13 legislation to be known and cited as the "Iowa Sovereignty  
14 Protection Act".

15 New Code section 2E.2 defines the term "government action"  
16 to mean any Act, order, law, statute, rule, regulation,  
17 or other action by a government including the legislative,  
18 executive, and judicial branches of the government.  
19 "Government action" includes a memorandum of agreement,  
20 memorandum of understanding, compacts, or other similar binding  
21 agreement with a government or nongovernmental organization or  
22 unit of government located outside this state, including but  
23 not limited to the federal government or its agents.

24 New Code section 2E.3 provides legislative findings  
25 concerning the Declaration of Independence and Constitution of  
26 the United States generally and the ninth and tenth amendments  
27 to that constitution in particular.

28 New Code section 2E.4 provides legislative findings  
29 concerning the role of the federal government relative to the  
30 states.

31 New Code section 2E.5 creates the tenth amendment  
32 commission, and provides for appointment of 10 legislators as  
33 voting members and governor and attorney general designees  
34 as nonvoting members. The membership from each chamber is  
35 required to include at least two members of the committee on



1 judiciary and is prohibited from including various legislative  
2 leaders.

3 New Code section 2E.6 delineates the duties of the  
4 commission to monitor government actions, as defined by the  
5 bill, and to issue findings concerning the constitutionality  
6 of the government actions or whether the government actions  
7 provide that the state of Iowa can be denied ordinarily  
8 available federal funding for not adopting certain laws or  
9 regulations.

10 For government actions involving memoranda of agreement,  
11 memoranda of understanding, or other legally binding agreements  
12 with the federal government, a government or nongovernmental  
13 organization, or a unit of state or local government located  
14 outside this state, this state's party to the government  
15 action is required to forward the document containing the  
16 terms of the government action to the commission. For such  
17 government actions entered into on or after the effective date  
18 of the bill, the documents are required to be forwarded to the  
19 commission prior to the state action being finalized.

20 A petition procedure is included so that a member of the  
21 general assembly who is not a member of the commission and  
22 collects the signatures of at least one-third of the membership  
23 of the member's chamber can require the commission to review a  
24 particular government action.

25 An affirmative vote by the majority of each chamber's  
26 voting members of the commission is required for issuance of  
27 a finding.

28 New Code section 2E.7 provides that if a finding is issued  
29 by the commission, the commission is required, upon the  
30 affirmative vote of a majority of the commission voting members  
31 from each chamber, to introduce a joint resolution to declare  
32 the government action described in the finding to be null and  
33 void and unenforceable as the government action applies to the  
34 state of Iowa. The joint resolution is to be introduced in  
35 the chamber selected by the commission, cannot be referred to

1 any committee of the general assembly, and is required to be  
2 considered by the chamber in which introduced with a record  
3 roll call vote within 10 session days of introduction. If  
4 the resolution contains a determination that fewer than 10  
5 session days likely remain before adjournment sine die of the  
6 regular legislative session, or the general assembly is in  
7 extraordinary session as determined by the commission, the  
8 joint resolution is subject to an expedited time frame.

9 The attorney general is required to initiate action or  
10 intervene and appear for the people of the state of Iowa to  
11 enforce the joint resolution in any United States court, upon  
12 request by either chamber of the general assembly or the  
13 legislative council. The joint resolution is not subject to  
14 approval or veto by the governor. The governor is prohibited  
15 from issuing an executive order overturning the joint  
16 resolution or executing or enforcing the federal law contrary  
17 to the provisions of the joint resolution.

18 New Code section 2E.8 provides that the new Code chapter does  
19 not prevent any member of the general assembly from introducing  
20 legislation on any issue within the purview of the general  
21 assembly.

22 A temporary law provision requires the initial members of  
23 the commission to be appointed within 30 calendar days of the  
24 effective date of the bill and for the first meeting of the  
25 commission to be called by the majority leader of the senate  
26 and speaker of the house of representatives not later than 60  
27 calendar days after the bill's effective date.

28 The bill takes effect upon enactment.