

HOUSE BILL NO. 702
INTRODUCED BY R. JORE

A BILL FOR AN ACT ENTITLED: "AN ACT RESTORING THE CONSTITUTIONAL AUTHORITY OF MONTANA IN REGARDS TO PUBLIC SCHOOLS AND REJECTING THE NO CHILD LEFT BEHIND ACT OF 2001; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, in the words of Thomas Jefferson:

(1) "The several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes";

(2) "It is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "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

(3) "The construction applied by the General Government (as is evidenced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defense and general welfare of the United States," and "to make all laws which shall be necessary and proper for carrying into execution, the powers vested by the Constitution in the government of the United States, or in any department or officer thereof," goes to the destruction of all limits prescribed to their powers by the Constitution: that words meant by the instrument to be subsidiary only to the execution of limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part to be so taken as to destroy the whole residue of that instrument"; and

WHEREAS, Article X of the Montana Constitution establishes the public school system and delineates specific authority in section 8 as to how that system is to operate by vesting "supervision and control of schools in each school district" to a Board of Trustees and, in section 9, "general supervision over the public school system" to a Board of Public Education; and

WHEREAS, Article VI of the Montana Constitution provides for a Superintendent of Public Instruction who "shall have such duties as provided by law"; and

WHEREAS, over 60% of the current budget of the Office of the Superintendent of Public Instruction is federal money, which establishes that the office is coerced to comply with federal edicts even though the duties

of the superintendent are to be established solely by the Legislature of the State of Montana according to Article VI of the Montana Constitution; and

WHEREAS, constitutionally established restrictions on federal involvement in schools are consistent with constitutionally established authority in the Montana Constitution regarding schools only as long as federal usurpations and intrusions are resisted; and

WHEREAS, the federal No Child Left Behind Act of 2001 enacted by Congress and signed by President Bush as Public Law 107-110 is, in the words of a resolution passed in the Virginia House of Delegates on January 23, 2004, on a 98 to 1 vote, "the most sweeping intrusion into state and local control of education in the history of the United States" and tends toward nationalizing the public school system in Montana.

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

NEW SECTION. Section 1. Legislative finding and rejection of No Child Left Behind Act. (1) It is the intent of the legislature of Montana to restore the proper constitutional authority in regards to public schools. The legislature finds that the enactment into law by the U.S. congress of the No Child Left Behind Act of 2001, Public Law 107-110, is an affront to states' rights and the well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution.

(2) The superintendent of public instruction is directed to not implement the No Child Left Behind Act of 2001, and schools, school districts, school administrators, teachers, and school personnel shall comply with Montana state law when any provision conflicts.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 1, part 2, and the provisions of Title 20, chapter 1, part 2, apply to [section 1].

NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2007.

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