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## HOUSE JOINT RESOLUTION NO. 597

Offered January 23, 1995

*Memorializing Congress to propose and submit to the several states an amendment to the Constitution of the United States providing that no court shall have the power to levy or increase taxes.*

Patrons—Wilkins, Albo, Baker, Ball, Barlow, Behm, Bennett, Bloxom, Callahan, Cantor, Cooper, Councill, Cox, Croshaw, Crouch, Deeds, Diamonstein, Dickinson, Dillard, Dudley, Fisher, Forbes, Giesen, Griffith, Guest, Hall, Hamilton, Hargrove, Harris, Heilig, Howell, Hull, Ingram, Johnson, Katzen, Kidd, Kilgore, Marshall, May, McClure, McDonnell, Miller, Mims, Morgan, Moss, Nelms, Newman, Nixon, O'Brien, Orrock, Parrish, Phillips, Plum, Purkey, Putney, Reid, Reynolds, Rhodes, Robinson, Rollison, Ruff, Sherwood, Stump, Tata, Thomas, Wagner, Wardrup, Watkins and Way; Senators: Barry, Bell, Benedetti, Calhoun, Earley, Holland, E.M., Martin, Marye, Miller, K.G., Norment, Robb, Stolle, Stosch, Trumbo and Woods

Referred to Committee on Rules

WHEREAS, in a five-to-four decision on April 18, 1990, the United States Supreme Court extended the power of the judicial branch of government beyond any defensible bounds; and

WHEREAS, in *Missouri v. Jenkins* (110 Sup Ct. 1651 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes; and

WHEREAS, this unprecedented decision violates a fundamental tenet of the separation of powers: that members of the federal judiciary, who serve for life and are answerable to no one, should not have control over the power of the purse; and

WHEREAS, in response to this decision, several members of Congress have introduced a constitutional amendment to reestablish the principle that judges do not have the power to tax; and

WHEREAS, the passage of such a constitutional amendment, by a two-thirds majority in both houses of Congress and by three-fourths of the several states' legislatures or conventions, would serve not only to reverse an unfortunate decision, but also to reassert the legislature's constitutional role in maintaining a strong tripartite system of government, a system in which each of the branches is constrained by the others; and

WHEREAS, such a constitutional amendment is a long-overdue response to a federal judiciary that, in pursuit of seemingly good ends, fails to recognize the constitutional limits on its power; and

WHEREAS, such an amendment properly seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby memorialize the United States Congress to propose and submit to the several states for ratification, no later than January 1, 1995, an amendment to the Constitution of the United States, the text of which shall read:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes"; and, be it

RESOLVED FURTHER, That the General Assembly encourage the legislatures of each of the several states, which have not yet made similar requests, to apply to the United States Congress requesting enactment of such an amendment to the Constitution of the United States; and, be it

RESOLVED FINALLY, That the Clerk of the House transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia congressional delegation so that they may be apprised of the sense of the General Assembly.

INTRODUCED

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