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SENATE JOINT RESOLUTION NO. 229

Offered January 13, 1997

Memorializing the Congress of the United States 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—Martin, Barry, Benedetti, Bolling, Chichester, Colgan, Earley, Miller, K.G., Newman, Norment, Reynolds, Schrock, Stolle and Williams; Delegates: Callahan, Cox, Crouch, Ingram, Nixon, Parrish, Sherwood and Thomas

Referred to the Committee on Rules

WHEREAS, the separation of powers is fundamental to the United States Constitution; and
 WHEREAS, the constitutional duty of the judiciary is to interpret the law, not to create it; and
 WHEREAS, in *Missouri v. Jenkins* (110 Sup Ct. 1651 (1990)), the United States 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, federal district courts with the acquiescence of the United States Supreme Court continue to order states to levy or increase taxes to comply with federal mandates; and

WHEREAS, these mandates imposed by statute, rule, or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

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

WHEREAS, ten states have petitioned Congress to propose and submit to the states this constitutional amendment for ratification; 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 constitutional role of the legislatures of the several states 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, has failed 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 Senate, the House of Delegates concurring, That the Congress of the United States be urged to propose and submit to the several states for ratification an amendment to the Constitution of the United States, the text of which shall read:

AMENDMENT OF THE CONSTITUTION

"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 request that the legislatures of the several states, which have not yet made similar requests, apply to the United States Congress requesting adoption of this amendment of the Constitution of the United States; and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, the Archivist of the United States at the National Archives and Records Administration of the United States, the members of the Virginia Congressional Delegation, and the legislatures of each of the several states attesting the adoption of this resolution.

INTRODUCED

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