

SENATE JOINT RESOLUTION 9

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2000 Regular Session
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By: **Senators Mooney and Baker**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

SENATE JOINT RESOLUTION

1 A Senate Joint Resolution concerning

2 **Federal Constitutional Amendment - Judicial Taxation**

3 FOR the purpose of memorializing the Congress of the United States to propose a
4 federal constitutional amendment providing that no federal court shall have the
5 power to levy or increase taxes; calling upon the members of the Maryland
6 Congressional Delegation to utilize their resources and influence to ensure
7 passage of such an amendment to the United States Constitution; and proposing
8 that the legislatures of each of the several states of the United States apply to
9 the Congress requesting enactment of such an amendment to the United States
10 Constitution.

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

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

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

20 WHEREAS, In response to this decision, several members of Congress have
21 introduced a constitutional amendment to reestablish a principle that has been well
22 settled: judges do not have the power to tax; and

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

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

1 WHEREAS, In addition to being introduced in the U.S. Congress the
2 constitutional amendment has also been proposed by the states of Alabama, Alaska,
3 Arizona, Colorado, Delaware, Louisiana, Massachusetts, Michigan, Missouri,
4 Nevada, New York, Oklahoma, South Dakota, Tennessee, and Utah; and

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

8 RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the
9 General Assembly hereby memorializes the U.S. Congress to propose and submit to
10 the several states for ratification no later than January 1, 2001, an amendment to the
11 Constitution of the United States, the text of which amendment shall read:

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

16 RESOLVED, That the General Assembly calls upon each Marylander serving in
17 the U.S. House of Representatives and the U.S. Senate to utilize immediately the full
18 measure of their resources and influence in order to ensure the passage of an
19 amendment to the Constitution of the United States providing that no federal court
20 shall have the power to levy or increase taxes; and be it further

21 RESOLVED, That the General Assembly also proposes that the legislatures of
22 each of the several states comprising the United States which have not yet made
23 similar applications apply to the Congress requesting enactment of an appropriate
24 amendment to the United States Constitution; and be it further

25 RESOLVED, That copies of this Resolution be transmitted by the Department of
26 Legislative Services to the Secretary of State and to the presiding officer and minority
27 party leader in each house of the legislature of the several states comprising the
28 United States, the Speaker of the U.S. House of Representatives, and the President of
29 the U.S. Senate; and be it further

30 RESOLVED, That a copy of this Resolution be forwarded by the Department of
31 Legislative Services to the Maryland Congressional Delegation: Senators Paul S.
32 Sarbanes and Barbara A. Mikulski, Senate Office Building, Washington, D.C. 20510;
33 and Representatives Wayne T. Gilchrest, Robert L. Ehrlich, Jr., Benjamin L. Cardin,
34 Albert R. Wynn, Steny Hamilton Hoyer, Roscoe G. Bartlett, Elijah E. Cummings, and
35 Constance A. Morella, House Office Building, Washington, D.C. 20515.