

SENATE JOINT RESOLUTION 6

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2001 Regular Session
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By: **Senators Mooney and Baker**
Introduced and read first time: January 19, 2001
Assigned to: Budget and Taxation
Reassigned: Judicial Proceedings, January 22, 2001

Committee Report: Favorable
Senate action: Adopted with floor amendments
Read second time: February 16, 2001

RESOLUTION NO. _____

SENATE JOINT RESOLUTION

1 A Senate Joint Resolution concerning

2 ~~**Federal Constitutional Amendment – Judicial Taxation**~~
3 **Taxation - Constitutional Amendment**

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

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

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

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

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

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

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

10 WHEREAS, In addition to being introduced in the U.S. Congress the
11 constitutional amendment has also been proposed by the states of Alabama, Alaska,
12 Arizona, Colorado, Delaware, Illinois, Kansas, Louisiana, Massachusetts, Michigan,
13 Missouri, Nevada, New Hampshire, New York, Oklahoma, Pennsylvania, South
14 Carolina, South Dakota, Tennessee, Utah, and West Virginia; and

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

18 RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the
19 General Assembly hereby memorializes the U.S. Congress to propose and submit to
20 the several states for ratification no later than January 1, 2002, an amendment to the
21 Constitution of the United States, the text of which amendment shall read:

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

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

31 RESOLVED, That the General Assembly also proposes that the legislatures of
32 the several states of the United States which have not yet made similar applications
33 apply to the Congress requesting enactment of an appropriate amendment to the
34 United States Constitution; and be it further

35 RESOLVED, That copies of this Resolution be transmitted by the Department of
36 Legislative Services to the Secretary of State and to the presiding officer and minority
37 party leader in each house of the legislatures of the several states of the United
38 States, the Speaker of the U.S. House of Representatives, and the President of the
39 U.S. Senate; and be it further

40 RESOLVED, That a copy of this Resolution be forwarded by the Department of
41 Legislative Services to the Maryland Congressional Delegation: Senators Paul S.

1 Sarbanes and Barbara A. Mikulski, Senate Office Building, Washington, D.C. 20510;
2 and Representatives Wayne T. Gilchrest, Robert L. Ehrlich, Jr., Benjamin L. Cardin,
3 Albert R. Wynn, Steny Hamilton Hoyer, Roscoe G. Bartlett, Elijah E. Cummings, and
4 Constance A. Morella, House Office Building, Washington, D.C. 20515.