

House Concurrent Resolution No. 76

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MOON.

5006H.011

DANA RADEMAN MILLER, Chief Clerk

1 **WHEREAS**, Article I of the United States Constitution begins "All legislative powers
2 herein granted shall be vested in a Congress"; and

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4 **WHEREAS**, the Congress has exceeded the legislative powers granted in the
5 Constitution thereby encroaching on the powers that are "reserved to the states respectively, or
6 to the people" as the Tenth Amendment affirms and the rights "retained by the people" to which
7 the Ninth Amendment refers; and

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9 **WHEREAS**, in Federalist No. 10, James Madison wrote that "No man is allowed to be
10 a judge in his own cause, because his interest would certainly bias his judgment, and...with
11 greater reason, a body of men are unfit to be both judges and parties at the same time"; and

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13 **WHEREAS**, this same principle was emphasized in the 1798 Kentucky Resolutions
14 (drafted by Thomas Jefferson) that the United States government "was not made the exclusive
15 or final judge of the extent of the powers delegated to itself; since that would have made its
16 discretion, and not the Constitution, the measure of its powers"; and

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18 **WHEREAS**, the Congress has latent but neglected powers to correct such judicial
19 supremacy by means of Article III, Section 2 regulations on appellate jurisdiction, yet by similar
20 reasoning such regulatory powers should be additionally extended to the several states, heeding
21 Jefferson's warnings that we not make the Constitution "a mere thing of wax in the hands of the
22 judiciary" for "to consider the judges as the ultimate arbiters of all constitutional questions"
23 would then "place us under the despotism of an oligarchy", rather "the people themselves" are
24 the "true corrective of constitutional abuses" and the states remain the closest and most
25 representative voice of the people; and

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27 **WHEREAS**, the United States Constitution should then be amended to enable the
28 several states to correct violations of the limited powers by the United States and thereby restore
29 the proper balance between the powers of Congress and those of the several states, and better
30 prevent the denial or disparagement of the rights retained by the people:

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32 **NOW THEREFORE BE IT RESOLVED** that the members of the Missouri House of
33 Representatives, One Hundredth General Assembly, Second Regular Session, the Senate
34 concurring therein, hereby strongly urge the Congress of the United States to propose the
35 following amendment, known as the State Powers Amendment, or SPA:

36 "Section 1. Any provision of law or regulation of the United States may be repealed by
37 the several states, and such repeal shall be effective when the legislatures of a Representative
38 Majority of the several states approve resolutions for this purpose that particularly describe the
39 same provision or provisions of law or regulation to be repealed. A Representative Majority of
40 the several states is a majority of the states also having together a majority of the apportioned
41 Representatives in Congress.

42 Section 2. The several states shall have power to make regulations and exceptions to the
43 appellate jurisdiction of the Supreme Court and all inferior courts and tribunals of the United
44 States, and such regulations and exceptions shall be effective when the legislatures of a
45 Representative Majority of the several states approve identical resolutions for this purpose no
46 more than five years apart."; and

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48 **BE IT FURTHER RESOLVED** that should the Congress fail to act after two-thirds of
49 the several states petition alike in substance for a State Powers Amendment, then a "convention
50 to propose amendments" under Article V of the United States Constitution shall be the proper
51 course and that delegates to such convention should be selected by the legislatures in the several
52 states and should vote by state, according to the practices established by the 1787 Federal
53 Convention in Philadelphia; and

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55 **BE IT FURTHER RESOLVED** that the state of Missouri reserves its further right to
56 petition in the same manner for further amendments as the General Assembly may deem
57 warranted; and

58 **BE IT FURTHER RESOLVED** that copies of this resolution be forwarded to the
59 legislatures of all the several states inviting them to likewise join in support of this petition; and

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61 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of
62 Representatives be instructed to prepare properly inscribed copies of this resolution for the
63 Speaker of the United States House of Representatives, the President of the United States Senate,
64 and each member of the Missouri congressional delegation.

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