

FIRST REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 41

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POGUE.

2061H.011

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment to article III of the Constitution of Missouri, by adopting one new section relating to state sovereignty.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2018, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

Section A. Article III, Constitution of Missouri, is amended by adding one new section to be known as section 54, to read as follows:

Section 54. If the general assembly, or a number of voters sufficient to file a referendum under article III, section 52(a) of the Constitution of Missouri, determine that the federal government is operating beyond the scope of its constitutionally delegated powers and infringing upon those natural rights retained by the states and the people under the Ninth and Tenth Amendments of the Constitution of the United States, then the general assembly or the people may submit a referendum petition to the voters at the next general election, or at a special election called by the governor, using the constitutionally defined process for submitting statutes for a vote of the people or for referenda, respectively, which shall provide a fair and accurate summary of the federal law at issue and ask whether or not it is constitutionally proper under the limited and delegated powers of the federal government.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 **Such referendum summaries shall not be subject to judicial review under the laws**
13 **of this state including, but not limited to, election laws in chapters 115 and 116, but a**
14 **challenge to the fairness and sufficiency of such summary statement may be made directly**
15 **to the Supreme Court of Missouri under its original jurisdiction to decide certain election**
16 **contests within thirty days of the filing of a referendum petition with the secretary of state**
17 **by the general assembly or by referendum proponents. The Supreme Court of Missouri**
18 **shall decide the matter expeditiously and shall either rule or allow the referendum on the**
19 **ballot if a ruling is not feasible under general court rules and procedures by the time of the**
20 **next special or general election.**

21 **If a majority of the voters vote in favor of the constitutionality of the federal law,**
22 **then it shall be enforced by this state and its agencies, courts, and political subdivisions.**
23 **However, if a majority of the voters vote in opposition to the constitutionality of the federal**
24 **law, then it shall not be enforced by any agency, court, or political subdivision of this state**
25 **and no state moneys shall be expended for the enforcement of the federal law.**
26 **Furthermore, if a federal law is declared unconstitutional by majority vote of a referendum**
27 **in this state, then the courts of this state shall be stripped of jurisdiction to enforce such a**
28 **particular federal law with the understanding that the federal courts are not stripped of**
29 **such jurisdiction by this state and that the courts of this state shall automatically transfer**
30 **any case involving such federal laws to the federal courts for vindication of any federal**
31 **rights created under such federal laws. The courts of this state shall hear and apply**
32 **federal laws vindicating federal constitutional rights and shall also hear and interpret all**
33 **claims arising directly under the Constitution of the United States. Also, if a majority votes**
34 **in opposition to a federal law, then the courts of this state shall lack jurisdiction to enforce**
35 **any substantially similar state law or law of another state and shall decline to enforce any**
36 **such law. The question of substantial similarity is delegated to the judiciary for judicial**
37 **review.**

38 **The general assembly or the people via the referendum process authorized under**
39 **this section may submit multiple requests on the same federal law and the last in time vote**
40 **shall prevail or, if conflicting referenda are presented at the same election and each**
41 **achieves a majority vote, then the referendum having the highest vote total shall prevail.**

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