

SENATE CONCURRENT RESOLUTION NO. 21

Relating to an application to Congress for the calling of an Article V Convention of states to propose an amendment to the United States Constitution to authorize the several states to repeal certain federal actions.

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

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

Whereas, in addition to the encroachment by Congress on powers reserved to the states, the federal courts have exceeded powers granted to the federal judiciary under Article III of the U.S. Constitution by rulings that encroach upon powers reserved to the states; and

Whereas, the United States Constitution should be amended to enable the several states to correct violations of the limited powers by the United States and thereby restore the proper balance between the powers of Congress and the federal courts and those of the several states, and better prevent the denial or disparagement of the rights retained by the people:

Now Therefore Be It Resolved that the members of the Missouri Senate, One Hundred First General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby apply to Congress, under the provisions of Article V of the United States Constitution, for the calling of a convention of the states limited to proposing an

amendment to the United States Constitution to give states the authority to repeal a Federal rule, regulation, or statute, or a Federal court ruling relating to certain federal actions, when ratified by the legislatures of two-thirds of the several states; and

Be It Further Resolved that the following article be proposed as an amendment to the Constitution of the United States:

"Section 1. The several states may repeal, in whole or in part, any:

1) Presidential Executive order, rule, regulation, other regulatory action, administrative ruling issued by a department, agency, or instrumentality of the United States;

2) Statute that has duly passed both houses of Congress; or

3) Federal Court ruling relating to the provisions of subsection 1 or 2 of this section.

Such repeal shall be effective when the legislatures of two-thirds of the several States approve resolutions for this purpose that particularly describe the same provision or provisions of the Executive order, rule, regulation, other regulatory action, administrative ruling or statute, or ruling to be repealed.

Section 2. Congress shall have power to enforce this article by appropriate legislation."; and

Be It Further Resolved that the General Assembly adopts this application with the following understandings (as the term "understandings" is used within the context of "reservations, understandings, and declarations"):

(1) An application to Congress for an Article V convention confers no power on Congress other than to perform a ministerial function to "call" for a convention;

(2) This ministerial duty shall be performed by Congress only when Article V applications for substantially the same purpose are received from two-thirds of the legislatures of the several states;

(3) The power of Congress to "call" a convention solely consists of the authority to name a reasonable time and place for the initial meeting of the convention;

(4) Congress possesses no power whatsoever to name delegates to the convention, as this power remains exclusively within the authority of the legislatures of the several states;

(5) Congress possesses no power to set the number of delegates to be sent by any states;

(6) Congress possesses no power whatsoever to determine any rules for such convention;

(7) By definition, a Convention of States means that states vote on the basis of one state, one vote;

(8) A Convention of States convened pursuant to this application is limited to consideration of topics specified herein and no other;

(9) The General Assembly of Missouri may recall its delegates at any time for breach of their duties or violations of their instructions;

(10) Pursuant to the text of Article V, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states or by special state ratification conventions. The General Assembly of Missouri recommends that Congress specify its choice on ratification methodology contemporaneously with the call for the convention;

(11) Congress possesses no power whatsoever with regard to the Article V convention beyond the two powers acknowledged herein;

(12) Missouri places express reliance on prior legal and judicial determinations that Congress possesses no power under Article I relative to the Article V process, and that Congress must act only as expressly specified in Article V; and

Be It Further Resolved that this application shall expire five (5) years after the passage of this resolution; and

Be It Further Resolved that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, each member of the Missouri Congressional delegation, and the presiding officers of each of the legislative houses in the several states requesting their cooperation.