

HOUSE JOINT RESOLUTION NO. 26

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURTMAN (Sponsor), HINSON, PHILLIPS, LONG, SCHATZ, HOUGHTON, LEACH, CONWAY (14), RICHARDSON, LICHTENEGGER, ENTLICHER, BRATTIN, REDMON, BROWN (85), McCAHERTY, KOENIG, WALLINGFORD, HIGDON, BERRY, CIERPIOT, SOLON, DENISON, FRANZ, WIELAND, ASBURY, BAHR, WYATT, GUERNSEY, SMITH (150), DUGGER, KORMAN, DIECKHAUS, JONES (89) AND JONES (117) (Co-sponsors).

1427L.01H

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, 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, 2012, 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 I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 35, to read as follows:

Section 35. 1. That the state of Missouri hereby enforces its constitutional sovereignty and the sovereignty of its citizens under the Tenth Amendment to the Constitution of the United States of America over all powers not enumerated and delegated to the federal government by the Constitution of the United States of America, nor prohibited by it to the states.

2. The state of Missouri shall:

(1) Uphold and defend the Constitution of the United States of America by hereby prohibiting the Missouri legislative, executive, and judicial branches of government from recognizing, enforcing, or acting in furtherance of any federal law, executive order, judicial

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.

10 ruling, administrative ruling, collection of revenue, dispersal of revenue, or other action
11 by the legislative, executive, or judicial branches of the federal government that exceeds
12 the limited powers enumerated and delegated to the federal government;

13 (2) Not recognize, enforce, or act in furtherance of the following:

14 (a) Federal actions restricting the right of private citizens to bear arms;

15 (b) Federal actions legalizing or funding abortions, or the destruction of any
16 embryo containing human DNA from the zygote stage onward through all stages of
17 development;

18 (c) Any federal action requiring the sale or trade of carbon credits or imposing a
19 tax, fee, fine, or penalty on the release of carbon emissions;

20 (d) Federal actions involving a public option for health care, mandating end of life
21 counseling, rationing health care, dictating or limiting the type of treatment a doctor may
22 provide to his or her patient, authorizing or mandating the collection of a patient's medical
23 record into a database, covering illegal aliens under health insurance or prohibiting
24 enforcement of laws regarding coverage for illegal aliens, mandating the benefits health
25 insurance must cover, requiring insurance providers to cover abortion services, restricting
26 the ability of patients to purchase health insurance in another state, or assessing fees, fines,
27 or penalties on employers who do not provide health insurance to their employees;

28 (e) Any federal action mandating the recognition of same sex marriage, civil unions,
29 or any relationship other than the marriage of one man and one woman;

30 (f) Any federal action increasing the punishment for a crime based on the thoughts
31 of the perpetrator or the designation of the crime as a "hate crime";

32 (g) Any federal action regarding the establishment clause based upon a "wall of
33 separation" between church and state; the dicta of, or stare decisis based on the dicta of,
34 *Everson v. Board of Education*, 330 U.S. 1 (1947); or any subsequent district, appellate, or
35 Supreme Court holding relying on a "wall of separation" between church and state, that
36 is applied beyond the constitutional prohibition of establishing a national religion, as
37 intended by the signers of the Constitution and the first Congress. The acts of, and laws
38 passed by the first Congress regarding religion, including the Northwest Ordinance, shall
39 be dispositive on the issue as shall the acts of other founding fathers in their official
40 capacity within the federal government;

41 (h) Any federal action restricting the right of parents or guardians to home school,
42 enroll their children in a private or parochial school, or placing restrictions on curriculum;

43 (3) Interpret the Constitution of the United States of America based on its language
44 and the intent of the signers of the Constitution at the time of its passage. The several
45 amendments shall be interpreted by their language and the intent of the congressional

46 sponsor and co-sponsors of the amendment. Any interpretation of the Constitution based
47 on an emerging awareness, penumbras or shadows of the Constitution, a theory of the
48 Constitution being a "living, breathing document", or any interpretation that expands
49 federal authority beyond the limited powers enumerated and delegated to the federal
50 government, without an amendment to the Constitution, shall be deemed to exceed the
51 limited powers enumerated and delegated to the federal government.

52 **3. Missouri citizens shall have standing to bring a cause of action to enforce the**
53 **provisions of this section. Enforcement of this section shall apply to federal actions taking**
54 **effect after approval of this section by Missouri voters, federal actions enumerated herein,**
55 **and any federal action, regardless of its effective date, the general assembly or Missouri**
56 **supreme court shall hereafter determine, in accordance with subdivision (3) of subsection**
57 **2 of this section, to exceed the powers enumerated and delegated to the federal government**
58 **by the Constitution of the United States of America.**

59 **4. As used in this section, the following terms mean:**

60 (a) "Constitution", the Constitution of the United States of America;

61 (b) "Federal action", any federal law, executive order, judicial ruling,
62 administrative ruling, collection of revenue, dispersal of revenue, or other action by the
63 legislative, executive, or judicial branches of the federal government that exceeds the
64 limited powers enumerated and delegated to the federal government by the Constitution;

65 (c) "Public option", any health insurance plan passed after January 1, 2009,
66 operated by the federal government or its agent that competes directly or indirectly with
67 private health insurance providers.

68 **5. The provisions of this section are self-executing. All of the provisions of this**
69 **section are severable. If any of the provisions of this section is found by a court of**
70 **competent jurisdiction, in compliance with subdivision (3) of subsection 2 of this section,**
71 **to be unconstitutional or unconstitutionally enacted, the remaining provisions of this**
72 **section shall be and remain valid. Any ruling by a court of competent jurisdiction in**
73 **violation of subdivision (3) of subsection 2 of this section shall be invalid and not**
74 **recognized, enforced, or otherwise furthered in the state of Missouri.**

Section B. Pursuant to chapter 116, RSMo, and other applicable constitutional provisions
2 and laws of this state allowing the general assembly to adopt ballot language for the submission
3 of a joint resolution to the voters of this state, the official ballot title of the amendment proposed
4 in section A of this resolution shall be as follows:

5 "Shall the Missouri Constitution be amended to prohibit the state of Missouri
6 from recognizing, enforcing, or furthering any federal law, executive order,
7 judicial or administrative ruling, collection of revenue, dispersal of revenue, or

8 other action by the federal government that exceeds the limited powers
9 enumerated and delegated to the federal government by the United States
10 Constitution?".

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