

Model Legislation

(Petition for amendment)

Proposal for Missouri 2014 Session (state repeal amendment, SRA)

A CONCURRENT RESOLUTION

TO PETITION THE CONGRESS OF THE UNITED STATES TO PROPOSE A CONSTITUTIONAL AMENDMENT THAT EMPOWERS THE REPEAL OF ANY FEDERAL LAW OR REGULATION BY RESOLUTION OF A REPRESENTATIVE MAJORITY OF THE STATE LEGISLATURES; TO INVITE ALL THE SEVERAL STATES TO JOIN SUPPORT IN THIS PETITION, THAT SHOULD CONGRESS FAIL TO ACT AFTER TWO-THIRDS OF THE SEVERAL STATES PETITION ALIKE IN SUBSTANCE, A “CONVENTION TO PROPOSE AMENDMENTS” UNDER ARTICLE V OF THE UNITED STATES CONSTITUTION IS THE PROPER COURSE.

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 Federalist No. 10, James Madison wrote that “No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, . . . with greater reason, a body of men are unfit to be both judges and parties at the same time;” and this same principle was emphasized in the 1798 Kentucky Resolutions (drafted by Thomas Jefferson) that the United States government “was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers;” and

Whereas, the United States Constitution should then 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 those of the several States, and better prevent the denial or disparagement of the rights retained by the people. Now, therefore,

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

That the State of Missouri petitions the Congress of the United States to propose the following amendment (known as the State Repeal Amendment, or SRA) and that copies of this resolution be forwarded to the Speaker of the United States House of Representatives, the President of the United States Senate, and the Senators and Representatives of the United States Congress for Missouri:

“Any provision of law or regulation of the United States may be repealed by the several states, and such repeal shall be effective when the legislatures of a representative majority of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation to be repealed. A representative majority of the several states is a majority of the states also having together a majority of the Representatives in the Congress.”

Be it further resolved that copies of this resolution be forwarded to the Legislatures of all the several states inviting them to likewise join in support of this petition.

Be it further resolved that should The Congress fail to act after two-thirds of the Several States petition alike in substance for a State Repeal Amendment, then a “convention to propose amendments” under Article V of the United States Constitution shall be the proper course and that delegates to such convention shall be selected by the legislatures in the several states and shall vote by state (according to the practices established by the 1787 Federal Convention in Philadelphia.)

Be it further resolved that the State of Missouri reserves its right to petition in the same manner for further amendments as the General Assembly shall deem warranted.