

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 45

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NIEVES.

Read 1st time January 9, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4759S.021

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 Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2012, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article I of the Constitution of the state of Missouri:

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

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

7 **2. The state of Missouri shall:**

8 **(1) Uphold and defend the Constitution of the United States of
9 America by hereby prohibiting the Missouri legislative, executive, and
10 judicial branches of government from recognizing, enforcing, or acting
11 in furtherance of any federal law, executive order, judicial ruling,
12 administrative ruling, collection of revenue, dispersal of revenue, or
13 other action by the legislative, executive, or judicial branches of the
14 federal government that exceeds the limited powers enumerated and
15 delegated to the federal government;**

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

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

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

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

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

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

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

43 (g) Any federal action regarding the establishment clause based
44 upon a "wall of separation" between church and state;

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

48 (3) Interpret the Constitution of the United States of America
49 based on its language and the intent of the signers of the Constitution
50 at the time of its passage. The several amendments shall be interpreted
51 by their language and the intent of the congressional sponsor and co-
52 sponsors of the amendment. Any interpretation of the Constitution
53 based on an emerging awareness, penumbras or shadows of the

54 Constitution, a theory of the Constitution being a "living, breathing
55 document", or any interpretation that expands federal authority beyond
56 the limited powers enumerated and delegated to the federal
57 government, without an amendment to the Constitution, shall be
58 deemed to exceed the limited powers enumerated and delegated to the
59 federal government.

60 3. Missouri citizens shall have standing to bring a cause of action
61 to enforce the provisions of this section. Enforcement of this section
62 shall apply to federal actions taking effect after approval of this section
63 by Missouri voters, federal actions enumerated herein, and any federal
64 action, regardless of its effective date, the general assembly or Missouri
65 supreme court shall hereafter determine, in accordance with
66 subdivision (3) of subsection 2 of this section, to exceed the powers
67 enumerated and delegated to the federal government by the
68 Constitution of the United States of America.

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

70 (1) "Federal action", any federal law, executive order, judicial
71 ruling, administrative ruling, collection of revenue, dispersal of
72 revenue, or other action by the legislative, executive, or judicial
73 branches of the federal government that exceeds the limited powers
74 enumerated and delegated to the federal government by the
75 Constitution;

76 (2) "Public option", any health insurance plan passed after
77 January 1, 2009, operated by the federal government or its agent that
78 competes directly or indirectly with private health insurance providers;

79 (3) "Constitution", the Constitution of the United States of
80 America.

81 5. The provisions of this section are self-executing. All of the
82 provisions of this section are severable. If any of the provisions of this
83 section is found by a court of competent jurisdiction, in compliance
84 with subdivision (3) of subsection 2 of this section, to be
85 unconstitutional or unconstitutionally enacted, the remaining
86 provisions of this section shall be and remain valid. Any ruling by a
87 court of competent jurisdiction in violation of subdivision (3) of
88 subsection 2 of this section shall be invalid and not recognized,
89 enforced, or otherwise furthered in the state of Missouri.

Section B. Pursuant to chapter 116, RSMo, and other applicable

2 constitutional provisions and laws of this state allowing the general assembly to
3 adopt ballot language for the submission of a joint resolution to the voters of this
4 state, the official ballot title of the amendment proposed in section A of this
5 resolution shall be as follows:

6 "Shall the Missouri Constitution be amended to prohibit the state
7 of Missouri from recognizing, enforcing, or furthering any federal
8 law, executive order, judicial or administrative ruling, collection of
9 revenue, dispersal of revenue, or other action by the federal
10 government that exceeds the limited powers enumerated and
11 delegated to the federal government by the United States
12 Constitution?"

✓

Bill

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