

## House Resolution 1424

By: Representatives Bannister of the 70<sup>th</sup>, Post 1, Ralston of the 6<sup>th</sup>, Williams of the 4<sup>th</sup>,  
Parsons of the 29<sup>th</sup>, Heard of the 70<sup>th</sup>, Post 3, and others

## A RESOLUTION

1 Memorializing Congress to prohibit federal courts from ordering or instructing any state or  
2 political subdivision thereof to levy or increase taxes; and for other purposes.

3 WHEREAS, in 1990, the United States Supreme Court, in the case of *Missouri, et al. v.*  
4 *Jenkins, et al.* (495 U.S. 33), chose to disregard Article I, Section 8, of the United States  
5 Constitution, which reserves exclusively to the legislative branch of government the power  
6 to tax the citizenry; and

7 WHEREAS, in drafting that constitutional section and allocating the power of taxation, the  
8 Founding Fathers drew on the Petition of Right, an English law initiated by Sir Edward  
9 Coke, then approved by the British House of Commons and accepted by King Charles I on  
10 June 7, 1628, which states in pertinent part that "...no man hereafter [may] be compelled to  
11 make or yield any...tax...without common consent by Act of Parliament..."; and

12 WHEREAS, in 1787, the framers of the United States Constitution reiterated that time-tested  
13 principle of limited taxation, specifically vesting with the legislative branch the "...Power To  
14 lay and collect Taxes, Duties, Imposts and Excises..."; and

15 WHEREAS, their intent is unambiguous, made clear by the analysis of James Madison, who  
16 observed in The Federalist No. 48 that "...the legislative department alone has access to the  
17 pockets of the people..."; and

18 WHEREAS, the same view is expressed by Alexander Hamilton, who asked rhetorically in  
19 The Federalist No. 33, "[w]hat is the power of laying and collecting taxes but a legislative  
20 power...?," and follows consistently in The Federalist No. 78, in which he argued that the  
21 judiciary should be the least dangerous branch of government inasmuch as judges would  
22 have "...no influence over either the sword or the purse..."; and

1 WHEREAS, yet today, Hamilton's argument no longer rings true; through legal orders and  
2 the exercise of judicial threat and intimidation, federal courts have usurped the power of the  
3 legislative branch and have gone so far as to apply it even to nonfederal levels of  
4 government, mandating state and local requirements that have the direct, or indirect, effect  
5 of imposing judicial taxes on the states and their political subdivisions; and

6 WHEREAS, in so vesting itself by fiat with control of the public purse strings, the federal  
7 judiciary has contravened and overridden the constitutional separation of powers between  
8 the different branches and levels of government, threatening creation of a fiscal oligarchy  
9 un beholden to influence by the electorate; and

10 WHEREAS, the states and congress have too long ignored this self-proclamation and seizure  
11 of taxation powers, and it behooves all Americans to preserve their rights by the adoption of  
12 an amendment to the Constitution of the United States, re-establishing the fundamental link  
13 between taxation and representation; and

14 WHEREAS, seeking to reverse the aforementioned *Jenkins* decision of 1990, lawmakers in  
15 23 other states--and in two territories of the United States--beginning in 1993, have already  
16 adopted and transmitted to Congress memorials requesting that Congress propose an  
17 amendment to the United States Constitution, and those memorials have been entered in the  
18 Congressional Record as follows:

19 The Missouri General Assembly in 1993 (Senate Concurrent Resolution No. 9) designated  
20 as POM-175 in Volume 139 of the Congressional Record at page 14565;

21 The Colorado General Assembly in 1994 (Senate Joint Memorial No. 94-2) designated as  
22 POM-569 in Volume 140 of the Congressional Record at page 15070;

23 The New York Senate in 1994 (Senate No. 3352) designated as POM-578 in Volume 140  
24 of the Congressional Record at page 15073;

25 The Tennessee General Assembly in 1994 (Senate Joint Resolution No. 372) designated  
26 as POM-580 in Volume 140 of the Congressional Record at page 15074;

27 The Arizona Legislature in 1995 (Senate Concurrent Resolution No. 1014) designated as  
28 POM-523 in Volume 142 of the Congressional Record at pages 6586 and 6587;

29 The Louisiana Legislature in 1995 (Senate Concurrent Resolution No. 11) designated as  
30 POM-525 in Volume 142 of the Congressional Record at page 6587;

31 The Massachusetts Senate in 1995 (unnumbered resolution) designated as POM-625 in  
32 Volume 142 of the Congressional Record at pages 14940 and 14941 and designated as POM-  
33 638 at page 15486;

1 The Nevada Legislature in 1995 (Senate Joint Resolution No. 2) designated as POM-287  
2 in Volume 141 of the Congressional Record at page 22422;

3 The Alaska Legislature in both 1996 and 1998 (House Joint Resolution No. 30 in 1996)  
4 designated as POM-622 in Volume 142 of the Congressional Record at pages 14939 and  
5 14940; (House Joint Resolution No. 57 in 1998) designated as POM-515 in Volume 144 of  
6 the Congressional Record at page S9042;

7 The Michigan Legislature in 1996 (Senate Concurrent Resolution No. 278) designated as  
8 POM-444 in Volume 144 of the Congressional Record at page S5515;

9 The South Dakota Legislature in 1996 (House Concurrent Resolution No. 1010) designated  
10 as POM-526 in Volume 142 of the Congressional Record at page 6587;

11 The Delaware General Assembly in 1997 (House Concurrent Resolution No. 6) designated  
12 as POM-120 in Volume 143 of the Congressional Record at page S5252;

13 The Alabama Legislature in 1998 (House Joint Resolution No. 261) designated as POM-  
14 416 in Volume 144 of the Congressional Record at page S9405;

15 The Oklahoma Legislature in 1998 (Senate Concurrent Resolution No. 50) designated as  
16 POM-479 in Volume 144 of the Congressional Record at pages S6404 and S6405;

17 The Illinois Senate in 1999 (Senate Resolution No. 216) designated as POM-449 in  
18 Volume 146 of the Congressional Record at page S1814 and designated as POM-512 at page  
19 S3611;

20 The Utah Legislature in 1999 (House Joint Resolution No. 5) designated as POM-285 in  
21 Volume 145 of the Congressional Record at page S9945;

22 The Kansas Legislature in 2000 (House Concurrent Resolution No. 5059) designated as  
23 POM-527 in Volume 146 of the Congressional Record at page S4378;

24 The New Hampshire General Court in 2000 (House Concurrent Resolution No. 27)  
25 designated as POM-531 in Volume 146 of the Congressional Record at page S6469;

26 The Pennsylvania General Assembly in 2000 (Senate Resolution No. 47) designated as  
27 POM-642 in Volume 146 of the Congressional Record at pages S11788 and S11789;

28 The South Carolina General Assembly in 2000 (House Concurrent Resolution No. 4434)  
29 designated as POM-641 in Volume 146 of the Congressional Record at page S11575;

30 The West Virginia Legislature in 2000 (House Concurrent Resolution No. 5) designated  
31 as POM-442 in Volume 146 of the Congressional Record at page S1669;

32 The House of Representatives of the Commonwealth of the Northern Mariana Islands--a  
33 territory of the United States--in 2000 (House Resolution No. 12-109) designated as  
34 Memorial No. 1 in Volume 147 of the Congressional Record at page H111; as well as  
35 the Senate of the Commonwealth of the Northern Mariana Islands, likewise in 2000, (Senate  
36 Resolution No. 12-33) designated as POM-46 in Volume 147 of the Congressional Record  
37 at page S4244;

1 The North Dakota Legislative Assembly in 2001 (House Concurrent Resolution No. 3031)  
2 designated as POM-7 in Volume 147 of the Congressional Record at pages S3704 and  
3 S3705;

4 The Legislature of the United States Territory of Guam in 2001 (Resolution No. 6)  
5 designated as POM-357 in Volume 148 of the Congressional Record at page S10570; and

6 The Wyoming Legislature in 2002 (Senate Joint Resolution No. SJ003, later styled  
7 Enrolled Joint Resolution No. 2) designated as POM-250 in Volume 148 of the  
8 Congressional Record at pages S5630 and S5631.

9 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that  
10 this body does hereby memorialize the United States Congress to propose and submit to the  
11 states for ratification an amendment to the United States Constitution to prohibit all federal  
12 courts from ordering or instructing any state or political subdivision thereof, or an official  
13 of any state or political subdivision, to levy or increase taxes.

14 BE IT FURTHER RESOLVED that the Congress be respectfully requested to entertain the  
15 following suggested text for such an amendment:

16 "ARTICLE \_\_\_\_\_

17 Neither the Supreme Court nor any inferior court of the United States shall have the  
18 power to instruct or order a state or political subdivision thereof, or an official of such state  
19 or political subdivision, to levy or increase taxes."

20 BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized  
21 and directed to transmit appropriate copies of this resolution to the Vice President of the  
22 United States, to the Speaker of the United States House of Representatives, and to all  
23 members of the Georgia delegation to the Congress, with the request that this resolution be  
24 entered officially in the Congressional Record as a memorial to the Congress of the United  
25 States of America to propose for ratification a federal constitutional amendment to prohibit  
26 judicially imposed taxes.