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SENATE JOINT RESOLUTION 26

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Joseph J. Carraro

A JOINT RESOLUTION

REQUESTING THE UNITED STATES CONGRESS TO AMEND THE UNITED STATES CONSTITUTION TO PROVIDE THAT NO COURT SHALL HAVE THE POWER TO ORDER A STATE OR ITS OFFICIALS OR A POLITICAL SUBDIVISION OR ITS OFFICIALS TO LEVY OR INCREASE A TAX.

WHEREAS, separation of powers is fundamental to the United States constitution and, as such, the power of the federal government is strictly limited; and

WHEREAS, pursuant to the United States constitution, the states are to determine public policy; and

WHEREAS, it is the duty of the judiciary to interpret the law, not to create law; and

WHEREAS, the federal government has all too often strayed from the intent of the founding fathers and the United States

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1 constitution through inappropriate federal mandates; and

2 WHEREAS, those mandates, by way of statute, rule or
3 judicial decision, have forced state governments to serve as
4 mere administrative arms of the federal government; and

5 WHEREAS, federal district courts, with the acquiescence of
6 the United States supreme court, have ordered and continue to
7 order states to levy or increase taxes to comply with federal
8 mandates; and

9 WHEREAS, such judicial acts violate the United States
10 constitution and the legislative process; and

11 WHEREAS, the time has come for the people of this great
12 nation and their duly elected representatives in state
13 government to reaffirm, in no uncertain terms, that the
14 authority to tax under the United States constitution is
15 retained by the people, who, by their consent alone, do
16 delegate such power to tax explicitly to those duly elected
17 representatives in the legislative branch of government who
18 they choose, such representatives being directly responsible
19 and accountable to those who have elected them; and

20 WHEREAS, the lawmakers of many of the several states
21 petitioned the United States congress to propose an amendment
22 to the United States constitution; and

23 WHEREAS, the amendment was previously introduced to the
24 United States congress; and

25 WHEREAS, the amendment sought to prevent federal courts

1 from ordering the levying or increase of taxes without
2 representation of the people and against the people's will;

3 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
4 STATE OF NEW MEXICO that the United States congress be
5 requested to prepare and submit to the states an amendment to
6 the United States constitution to add a new article providing
7 as follows:

8 "Neither the supreme court, nor any inferior court of the
9 United States, shall have the power to instruct or order a
10 state or political subdivision thereof, or an official of such
11 a state or political subdivision, to levy or increase taxes.";
12 and

13 BE IT FURTHER RESOLVED that this application constitute a
14 continuing application in accordance with Article 5 of the
15 United States constitution; and

16 BE IT FURTHER RESOLVED that the legislature of the state
17 of New Mexico also propose that the legislatures of each of the
18 several states comprising the United States that have not yet
19 made a similar request apply to the United States congress
20 requesting enactment of an appropriate amendment to the United
21 States constitution and apply to the United States congress to
22 propose such an amendment to the United States constitution;
23 and

24 BE IT FURTHER RESOLVED that copies of this resolution be
25 transmitted to the president and vice president of the United

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1 States senate and to each member of the state of New Mexico's
2 congressional delegation.

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