

By Senator Perry

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Senate Memorial

A memorial to the Congress of the United States,
urging Congress to propose to the states an amendment
to the United States Constitution that allows Congress
to deem a law that has been declared void by certain
federal courts active and operational.

WHEREAS, the judicial branch of the Federal Government has
taken on an increasingly activist role aimed at molding
legislation according to the political beliefs of its members,
and

WHEREAS, such an activist posture tends to excessively
consolidate power in one branch of government, and, as George
Washington observed, such encroachments eventually create "a
real despotism," and

WHEREAS, George Washington also wrote that the appropriate
method of effecting constitutional change is through amendment
and not by usurpation, as such encroachments would eventually
destroy free governments, and

WHEREAS, none of the members of the federal judiciary,
including the justices of the United States Supreme Court, are
elected officials subject to what Thomas Jefferson described as
"the elective control," and

WHEREAS, the United States Supreme Court currently
possesses ultimate and unchecked authority on matters of the
constitutionality of the United States' laws such that its
opinion on such matters has the same effect as amending the
United States Constitution, and

WHEREAS, Thomas Jefferson foresaw the dangers of "allowing

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30 judges to be the ultimate arbiters of all constitutional
31 questions," calling this "a very dangerous doctrine indeed, and
32 one which would place us under the despotism of an oligarchy,"
33 and

34 WHEREAS, the presence of such unchecked and plenary
35 authority on determining the constitutional validity of a law of
36 the United States must be dismantled for the sake of our
37 republic and for the continued empowerment of its people, and

38 WHEREAS, the United States Congress may submit proposed
39 constitutional amendments for consideration and ratification by
40 the states, NOW, THEREFORE,

41
42 Be It Resolved by the Legislature of the State of Florida:

43
44 That the Florida Legislature respectfully petitions the
45 United States Congress to propose to the states an amendment to
46 the United States Constitution providing that any law,
47 resolution, or other legislative act declared void by the United
48 States Supreme Court or a United States court of appeals may be
49 deemed active and operational, notwithstanding the court's
50 ruling, if agreed to by Congress pursuant to a joint resolution
51 adopted by a 60 percent vote of each chamber of Congress within
52 5 years after the date the ruling becomes final. Such a joint
53 resolution shall take effect immediately upon passage.

54 BE IT FURTHER RESOLVED that copies of this memorial be
55 dispatched to the President of the United States, to the
56 President of the United States Senate, to the Speaker of the
57 United States House of Representatives, and to each member of
58 the Florida delegation to the United States Congress.