

1 SJR36
2 196558-1
3 By Senator Ward
4 RFD:
5 First Read: 09-APR-19

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8 RESCINDING ALL PREVIOUS RESOLUTIONS OF THE ALABAMA
9 LEGISLATURE WHICH REQUEST CONGRESS TO CALL A CONVENTION
10 PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION.
11

12 WHEREAS, the Federal Constitutional Convention of
13 1787 was called for the sole and express purpose of revising
14 the Articles of Confederation, yet this convention decided
15 instead to discard the Articles of Confederation and draft a
16 new constitution which created a new system of government; and

17 WHEREAS, the Articles of Confederation provided that
18 an amendment to the Articles had to be approved by the
19 Continental Congress and all of the then 13 states before the
20 amendment would be effective; the new constitution drafted at
21 the Federal Constitutional Convention of 1787 provided that an
22 amendment would be ratified when only nine of the states
23 approved the amendment; and

24 WHEREAS, the United States Constitution has served
25 as the cornerstone of American liberty since its creation in
26 1787; it was the first written national constitution to set
27 forth a system of separation of powers into three branches and
28 to enumerate the powers delegated to each of the branches; and

1 WHEREAS, the powers delegated by the Constitution of
2 1787 to the federal government are few and defined, and our
3 problems arise from not knowing and not enforcing those
4 existing limitations on the federal government; and

5 WHEREAS, James Madison wrote in The Federalist No.
6 43 that the purpose of amendments to the United States
7 Constitution are to repair discovered constitutional faults or
8 for amendments of constitutional errors, and that no framer
9 said the purpose of amendments are to rein in the federal
10 government when it usurps powers not delegated; and

11 WHEREAS, James Madison showed in The Federalist No.
12 49 that a convention is neither proper nor effective to
13 restrain government when it encroaches; and

14 WHEREAS, Article V of the United States Constitution
15 provides for two methods of amendment, Congress proposes
16 amendments and sends them to the states for ratification, or
17 upon the applications of the legislatures of two-thirds of the
18 states, Congress calls a convention for proposing amendments;
19 and

20 WHEREAS, James Madison trembled at the prospect of
21 another convention, Alexander Hamilton dreaded one, and four
22 former Justices of the United States Supreme Court warned that
23 another convention would run "extravagant risques" and that
24 delegates to a convention cannot be controlled; and

25 WHEREAS, if delegates to a convention called by
26 Congress pursuant to Article V decide to discard our
27 Constitution of 1787 and create a new constitution with a new

1 system of government, the new constitution will have its own
2 new mode of ratification; and

3 WHEREAS, each of the existing 27 Amendments to the
4 United States Constitution were proposed by Congress and
5 submitted to the states for ratification; we have never had a
6 convention called under Article V of our Constitution; and

7 WHEREAS, Article V of the United States Constitution
8 delegates to Congress the power to call a federal
9 constitutional convention; Article I, Section 8, last clause,
10 delegates to Congress the power to make all laws necessary and
11 proper for carrying out all powers vested by the Constitution
12 in Congress; and

13 WHEREAS, the Congressional Research Service Report
14 dated April 11, 2014, shows that in Congress' preliminary
15 preparations for Article V conventions in the past, Congress
16 has traditionally laid claim to broad responsibilities in
17 connection with a convention, including determining the number
18 and selection process for its delegates, setting internal
19 convention procedures, including formulae for allocation of
20 votes among the states; and

21 WHEREAS, the states have no constitutional authority
22 to determine the rules of order or operational aspects of a
23 constitutional convention called by Congress pursuant to
24 Article V of the Constitution; and

25 WHEREAS, nothing in Article V of the Constitution
26 provides for, nor can any state application guarantee, equal
27 suffrage or equal franchise to each state at a constitutional
28 convention; and

1 WHEREAS, the states have no authority to impose any
2 penalty, sanction, or limitation on convention delegates, for
3 the delegates represent the people and the sovereign right of
4 the people to alter or abolish their government and to
5 institute a new government; and

6 WHEREAS, the Alabama Legislature has at various
7 times since at least as early as 1833 passed resolutions
8 requesting Congress to call a convention, pursuant to Article
9 V of the Constitution, to propose amendments to the
10 Constitution relating to a variety of subjects; and

11 WHEREAS, nothing in Article V of the Constitution
12 permits Congress or the states to limit the convention to any
13 specific topic or topics; and

14 WHEREAS, over the course of time, the will of the
15 people of the State of Alabama may have changed relating to
16 these previous resolutions; and

17 WHEREAS, a constitutional convention called by
18 Congress could result in the imposition of a new constitution
19 with its own new mode of ratification, which could
20 fundamentally transform our country by establishing a new
21 system of government which denies the existence of
22 unalienable, God-given rights and establishes a tyranny,
23 thereby denying liberty to future generations of Alabama
24 residents; and

25 WHEREAS, the Alabama Legislature is aware that other
26 state legislatures have made applications requesting that
27 Congress call a constitutional convention; and

1 WHEREAS, the Alabama Legislature no longer supports
2 its previous resolutions which request that Congress call a
3 constitutional convention, many of which were adopted many
4 decades ago, and does not wish for these resolutions to be
5 included with applications made by other state legislatures;
6 now therefore,

7 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
8 HOUSES THEREOF CONCURRING, That the members of the Alabama
9 Legislature hereby rescind, repeal, cancel, void, nullify, and
10 withdraw each and every previous resolution passed by the
11 Alabama Legislature which requests or urges the Congress of
12 the United States to call a constitutional convention pursuant
13 to Article V of the United States Constitution.

14 BE IT FURTHER RESOLVED, That the members of the
15 Alabama Legislature urge each state legislature which has
16 requested Congress to call a constitutional convention to
17 withdraw those requests.

18 BE IT FURTHER RESOLVED, That the Secretary of State
19 shall transmit certified copies of this resolution to the
20 President and Secretary of the United States Senate, to the
21 Speaker and Secretary of the United States House of
22 Representatives, the members of the Alabama Congressional
23 Delegation, and to the presiding officers of each house of the
24 several state legislatures attesting the adoption of this
25 resolution by the Alabama Legislature.