

1 **HOUSE CONCURRENT RESOLUTION NO. 43**

2 (By Delegates J. Miller, Andes, Cowles, Duke, Ellington,
3 Householder, Howell, C. Miller, O'Neal, Overington, Rowan,
4 Sigler, Sobonya, Storch, Sumner and Walters)

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8 Calling for the Congress of the United States to call an Amendment
9 Convention Pursuant to Article V of the United States
10 Constitution for the Limited Purpose to Propose a
11 Constitutional Amendment Permitting Repeal of any federal law
12 or regulation by vote of two-thirds of the State legislatures.

13 WHEREAS, Article I of the United States Constitution begins
14 "All legislative powers herein granted shall be vested in a
15 Congress". The Congress has exceeded the legislative powers
16 granted in the Constitution thereby encroaching on the powers that
17 are "reserved to the states respectively, or to the people" as the
18 Tenth Amendment affirms and the rights "retained by the people" to
19 which the Ninth Amendment refers. This encroachment includes the
20 accumulation of federal debt, which combined with interest
21 represents a future tax, and is of such great proportion that
22 responsibility for its payment will be passed to future, unborn
23 generations of Americans to assume without their consent, thereby
24 disparaging their rights. This encroachment also includes

1 compelling state and local governments to comply with federal laws
2 and regulations without accompanying funding for such mandates; and
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4 WHEREAS, Alexander Hamilton wrote, in Federalist No. 85, in
5 reference to Article V of the Constitution and the calling of a
6 convention for the purpose of proposing amendments that, "We may
7 safely rely on the disposition of the state legislatures to erect
8 barriers against the encroachments of the national authority"; and

9 WHEREAS, The Constitution should be amended in order to halt
10 federal encroachment and restore a proper balance between the
11 powers of Congress and those of the several states, and to prevent
12 the denial or disparagement of the rights retained by the people;
13 therefore, be it

14 *Resolved by the Legislature of West Virginia:*

15 That the State of West Virginia hereby applies and makes
16 application to the Congress of the United States to call an
17 amendment convention pursuant to Article V of the United States
18 Constitution for the limited purpose of proposing a constitutional
19 amendment that permits the repeal of any federal law or regulation
20 by vote of two-thirds of the State legislatures, and the West
21 Virginia Delegation to such Convention, when called, shall propose
22 the following amendment: "Any provision of law or regulation of the
23 United States may be repealed by the several states, and such
24 repeal shall be effective when the legislatures of two-thirds of

1 the several states approve resolutions for this purpose that
2 particularly describe the same provision or provisions of law or
3 regulation to be repealed;" and, be it

4 *Further Resolved*, That this resolution is revoked and
5 withdrawn, nullified and superseded to the same effect as if it had
6 never been passed, and retroactive to the date of passage, if it is
7 used for the purpose of calling a convention or used in support of
8 conducting a convention to amend the Constitution of the United
9 States for any purpose other than consideration of the amendment
10 proposed in this resolution; and, be it

11 *Further Resolved*, That the State of West Virginia reserves its
12 right to add future amendments as the Legislature considers
13 warranted to this application and that delegates to the convention,
14 when called, be selected according to procedures established by the
15 legislatures of the several states; and, be it

16 *Further Resolved*, That the Clerk of the House of Delegates
17 transmit copies of this resolution to the Speaker of the United
18 States House of Representatives, the President of the United States
19 Senate, and the members of the West Virginia Congressional
20 Delegation so that they may be apprised of the sense of the West
21 Virginia House of Delegates in this matter.