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COMMENTS ON REGULATING A CONSTITUTIONAL CONVENTION

NEIL. H. COGAN*

INTRODUCTION

DECISION AND DISCUSSION of constitutional issues are today hampered by free-wheeling absolutists. Some absolutists are textualists who view the Constitution as a text only, understandable in a way a grocery list is understandable. They take little or no account, for example, of the principles of government and citizenship that the text sought to further. They take little or no account of the development of principles, whether political or popular, that proponents of a constitution expect. By contrast, some absolutists are politicists who view the Constitution as a set of political principles only. They take little or no account of text, original understanding or historical development. They can be more free-wheeling than textualists and more dangerous, for an untethered principle often covers more ground than an untethered word. "Speech" may have boundaries that "federalism" does not.

As of June 1985, thirty-two States had applied to Congress to call a constitutional convention that would propose a so-called Balanced Budget Amendment to the Constitution. Because there has neither been a constitutional convention under the Constitution nor a sufficient number of applications to spawn litigation about the pro-

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priety of a call, there are important, unresolved issues of constitutional law regarding the scope and procedures of a convention.

The Congress has received testimony with respect to constitutional convention issues as part of its consideration of S.119 (98th Cong., 1st Sess.), and predecessor bills, legislation providing procedures for a limited subject-matter constitutional convention. Following this introduction is a reprint of my written and oral testimony on April 25, 1984, before the United States Senate Committee on the Judiciary with respect to the constitutionality and wisdom of S.119.¹

Given the absence of experience and decisional law, S.119 and its predecessor bills provide a good opportunity to examine not only important, unresolved constitutional issues but also processes of constitutional decision-making. The debate about the scope and procedures of constitutional conventions has brought out both textualists and politicists. I attempted in my testimony to avoid the free-wheeling absolutism of both these groups. While I believe that constitutional law is the explication of fundamental principles that guide the American people's experiment in self-government, I attempted in my testimony to express constitutional principles tethered by text, original understanding and historical development.

I appreciate the *Journal's* assembling of Appendix A, which shows S. 119 as originally filed and as reported following testimony. I appreciate also the *Journal's* kind footnoting of Appendix A, which shows some arguable influence of the testimony.

I have assembled in Appendix B the applications of the thirty-two States for a constitutional convention; I appreciate the kindness of the Secretary of the United States Senate in providing me the materials I used in assembling

¹ Constitutional Conventions Procedures: Hearing on S.119 Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 98th Cong., 2d Sess. 28-54 (Apr. 25, 1984). I have made a few changes for this reprint, almost all of them in the form of the testimony.

Appendix B. The reader may determine for him- or herself whether these applications are constitutionally effective. Because I believe that applications may suggest a constitutional amendment for consideration by a convention but may not limit the convention's consideration to that suggested amendment, I believe that almost all, if not all, of the applications are ineffective. As I have testified, applications for a convention are effective only if they clearly request an open-subject convention.²

² See *infra* pp. 590-91, 602-03 & note 22.

WRITTEN COMMENTS SUBMITTED TO THE SENATE COMMITTEE ON THE JUDICIARY

This memorandum is divided into two parts. The memorandum discusses briefly in part I the constitutionality of legislation limiting a constitutional convention to a specific subject. On the assumption that such legislation is constitutional, the memorandum discusses in part II the constitutionality and wisdom of several of S. 119's more important provisions.

I. THE CONSTITUTIONALITY OF S. 119'S LIMITING A CONSTITUTIONAL CONVENTION TO A SPECIFIC SUBJECT

Because the issues have been so thoroughly discussed in the literature and because the Senate has previously passed over-whelmingly bills similar to S. 119, this memorandum discusses only briefly the unconstitutionality of its general intent, to limit the subject matter of constitutional convention called pursuant to article V. Each source of constitutional law which one examines confirms the understanding that an article V convention cannot constitutionally be limited.

The text of the Constitution provides two modes by which amendments to the Constitution may be proposed. The Congress may propose "Amendments" and, "on the Application of the Legislatures," Congress "shall call a Convention for proposing Amendments." The text plainly allows Congress to propose any number of amendments; if parallelism is meaningful, then the text plainly allows a convention also to propose any number of amendments. A convention is called on "the Application of the Legislatures," but "Application" does not modify the scope of the "Convention for proposing Amendments." Plainly, a convention thus called should consider the subjects motivating the call; perhaps a duty to consider such subjects can be read in the text. But there is no

textual limitation on the convention's consideration of other subjects and other proposals for amendments.

The debate of the Framers shows that Madison's proposal was that "on the application of two-thirds of the Legislatures of the several States, [Congress] shall propose amendments,"³ and that Madison's proposal was amended "as to require a Convention on application of $\frac{2}{3}$ of the Sts."⁴ While the debate is otherwise unenlightening, it does reveal an intent to shift the proposing function from the State legislatures to a convention. Allowing the States to control the proposing function of a convention (by limiting the proposals that it may make or even the subject matter that it may consider) subverts the shift in functions recorded in the debate.

The debate is enlightening on another point. Throughout the debates, the Framers made clear their distrust of having only the Congress authorized to propose amendments. So distrustful were they that it is reasonable to conclude that the Framers wished to have the Congress exercise as little control as possible over the proceedings of the convention. Plainly, to allow the Congress to control the proposals or subject matter of a convention subverts that intent.

Beyond text and specific debate, there are other compelling reasons for rejecting limitations on a convention to a specific subject. By the manner in which the Framers both debated and proceeded in their own convention, it is apparent that they understood that conventions were authorized to consider all subjects and propose any amendment. Except for equal suffrage in the Senate, the Framers understood that they were authorizing a mode that could affect the fundamental structures and relationships of the Constitution;⁵ allowing the States or the Con-

³ 2 M. FARRAND, *THE RECORDS OF THE FEDERAL CONVENTION* 559 (1937) [Sept. 10, 1787]

⁴ *Id.* at 629 [Sept. 15, 1787].

⁵ *E.g.*, Farrand mentions the following note written by Mason before Madison's proposal was amended:

gress to control the subject matter of a convention subverts that understanding.

Importantly too, there is an historic understanding of the two modes of amending the Constitution. The Congress has proposed several dozen amendments, twenty-six of which have been ratified. These have been specific rather than general revisions of the Constitution, proposed sporadically as conditions have warranted. By contrast, until the late nineteenth century all applications for a convention were applications for a convention to make general revisions in the Constitution. Since then, however, there have been applications for specific-subject conventions, although the requisite number of applications has never been received. This history shows at least a century's understanding that the Congressional mode of proposing amendments was intended for specific revisions, and the convention mode for general revisions. Further, this history shows a two-century understanding that the Congressional mode is structurally best suited for specific revisions and should be reserved for such, and that the convention mode is structurally best suited for general revisions and should be reserved for such. It is inconsistent with these historical understandings for the people to meet in convention only for the purpose of ratifying what their legislatures have already proposed.

For these reasons, I believe that Section 2 of S. 119, and the entire bill for that matter, is unconstitutional. Section 2(a) unconstitutionally purports to limit the bill to a "constitutional convention . . . for the purpose of proposing one or more specific amendments" And Section

In the margin of his copy of the draft of September 12, Mason had written:

"Article 5th — By this article Congress only have the power of proposing amendments at any future time to this constitution and should it prove ever so oppressive, the whole people of America can't make, or even propose alterations to it; a doctrine utterly subversive of the fundamental principles of the rights and liberties of the people."

Id. at 629 n.8.

2(b) specifically excludes “applications requesting a convention for any other purpose” For these reasons too, I believe that Section 6 (Congress’ duty to call a convention regarding a “general subject”); Section 10 (the convention’s duty to limit itself to the prescribed “general subject”); and Section 11 (Congress’ control of convention proposals to the prescribed “general subject”) are unconstitutional.

II. ON THE ASSUMPTION THAT LIMITING A
CONSTITUTIONAL CONVENTION TO A SPECIFIC
SUBJECT IS CONSTITUTIONAL, THE
CONSTITUTIONALITY AND
WISDOM OF S. 119’S OTHER PROVISIONS

A. *Contemporaneity*

Applications for a constitutional convention, like ratifications of constitutional amendments, must reflect the will of the people of the United States. In our constitutional system, we have concluded that the people’s will is expressed only when the expressions are sufficiently contemporaneous.⁶ Whether applications or ratifications are sufficiently contemporaneous depends of course upon the conditions within the nation, including political, economic, social and even technological conditions. It is proper for a Congress prior to the receipt of applications or ratifications to examine those conditions and make a determination (really a prediction) about what period of time will be sufficiently contemporaneous. If at the end of that period the requisite number of applications or ratifications has not been received, it is proper for another Congress to determine (predict) whether an extension of the period of time would be consistent with contemporaneity. Regardless of whether the period is extended, when the requisite number of applications or ratifications is received, it is the duty of the Congress that receives

⁶ See *Dillon v. Gloss*, 256 U.S. 368, 374-76 (1921); *Coleman v. Miller*, 307 U.S. 433, 453-54 (1929).

them to determine finally whether the entire period has been sufficiently contemporaneous.

In view of the above, Section 5(a) is problematical. It seeks to preserve pending applications (presumably for a Balanced Budget Convention) for a period of up to fourteen years. It is difficult to believe that in the last quarter of the twentieth century, applications spaced over a period of fourteen years are sufficiently contemporaneous. In a period when all legislatures meet at least once every two years; when the Congress or any State legislature may communicate, if it wishes, with every State legislator in the nation instantaneously; when national debates may be viewed by the vast majority of the electorate, applications made during a fourteen-year period are unlikely to reflect a unitary expression of will. This is especially true in a time when important beliefs and attitudes shift in relatively short periods of time. While Section 5(a) is not *per se* unconstitutional, it is likely to be unconstitutional in most foreseeable applications, and it is certainly misleading to the States that may rely upon it. Therefore, two suggestions are submitted.

First, the word "seven" on page 4, lines 18 and 19, should be stricken and the word "four" inserted;⁷ the sentence beginning with "An" on page 4, line 25, and continuing through "greater" on page 5, lines 4 and 5, should be stricken.⁸ These amendments would indicate the current Congress' belief that four years (or two general legislative sessions in States whose legislatures meet once every two years) is generally a sufficiently contemporaneous period. This will not bind a Congress that receives the requisite number of applications, because the Congress will make the final congressional decision whether four years or any extension thereof was a sufficiently contemporaneous period. But Section 5(a), as so amended, will at least serve as a benchmark for what in today's

⁷ See *infra* p. 614 lines 11 & 12.

⁸ See *infra* p. 614 lines 19-24.

America is considered a sufficiently contemporaneous period.

Second, the word "that" on page 6, line 4, should be stricken and the word "whether" substituted;⁹ a new sentence should be inserted in line 5 after the sentence ending with the word "subject."¹⁰ The new sentence should read: "In order to fulfill its duty, either House of the Congress may request each State from which an application has been received to inform the Congress whether the State's application, including the general subject included in such report, continues to reflect the will of the State legislature."¹¹ This amendment would provide Congress with an accurate method of determining contemporaneousness.¹² Legislatures that had recently made an application presumably would need little time to deliberate and reply. Legislatures that had not recently made an application would need some time, sixty days say, but if the application still expresses the will of the legislature a prompt reply should be no burden. Indeed, it seems to me to be no burden for a legislature annually or biennially to re-make its application until a convention is called; legislatures pass recurrent resolutions for far less important matters.

B. *Representation*

Neither article V nor the debate of the Framers speaks to the manner of selection of delegates to a convention. Moreover, the Supreme Court has consistently refused to recognize a right of citizens to elect members of State legislative bodies.¹³ Nonetheless, I believe that popular election of delegates to a federal convention is

⁹ See *infra* p. 615 line 20.

¹⁰ See *infra* p. 615 lines 22-33.

¹¹ Of course some State legislatures may not be in session. But the importance of a constitutional convention is sufficient to compel a special State legislative session if the State truly wishes a convention.

¹² It is an accurate method also of determining the effectiveness of any repeal of application.

¹³ *Harper v. Virginia Board of Elections*, 383 U.S. 663, 665 (1966).

constitutionally required, and that appointment of delegates, as provided in Section 7(a), is unconstitutional.

First, as noted above, the Framers rejected Madison's proposal that the Congress transmit to the States those amendments proposed by two-thirds of the States, and substituted a proposal that the Congress must call a convention for the proposing of amendments upon the application of two-thirds of the States. To allow the States to initiate a convention (and, assumedly, to limit its subject matter) and to allow the States to choose the delegates too, would revive the rejected Madison proposal and allow the States to use a convention as a rubber-stamp of their own proposals. Second, the Framers' intent notwithstanding, at least since the Seventeenth Amendment and at least regarding the federal system the popular election of general-purpose legislative bodies has become a fundamental principle of our constitutional structures and relationships. The application of this principle to the third great legislative body created by the Framers would seem unchallengeable. Therefore, it is suggested that the words "Each State shall appoint" on page 7, line 1, be stricken and the words "The people of each State shall elect" be substituted.¹⁴

While neither the text nor the debate of the Framers again speaks to the number of delegates and the weight of their votes, the Court has said that equal representation for equal numbers of people is a "basis principle of [our] representative government"¹⁵ There is no reason to suppose that this principle should not apply to a constitutional convention; article V amply protects the States by requiring ratification of any amendment, however proposed, by three-fourths of the States.¹⁶ Section 7(a), in providing that the number of delegates for each State shall equal the whole number of Senators and Represent-

¹⁴ See *infra* p. 616 line 11.

¹⁵ *Reynolds v. Sims*, 377 U.S. 533, 567 (1964).

¹⁶ There is no reason to suppose that the Great Compromise was intended to apply to a convention under article V.

atives to which such State is entitled in Congress, is unconstitutional when read in combination with Section 9(a), providing that each delegate shall receive one vote. Therefore, it is suggested that the words "Senators and" on page 7, line 4, be stricken.¹⁷

Finally, while it may not be unconstitutional for Section 7(a) to prohibit Senators and Representatives from serving as delegates (and, simultaneously, holding office in the Federal Legislature), it seems terribly unwise to disqualify from service persons who have so much expertise. Many of the delegates to the Philadelphia Convention were members of the Continental Congress and, needless to say, served so ably that we have been thankful ever since.

C. *Procedures*

The Congress has no power to control, by Section 9(c), the length of a convention's proceedings. How long a convention shall study and debate, how deliberate it shall be, are matters vital to the convention's process. To allow the Congress, of which a convention was intended to be independent, to control vital matters violates the Framers' intent. Therefore, it is suggested that Section 9(c) be stricken or be made hortatory only.

D. *Ratification*

On the assumption that the States may limit the subject matter of a convention, then a convention acts beyond its jurisdiction — i.e., it acts unconstitutionally — when it proposes an amendment unrelated to the general subject matter demanded by the States. Nonetheless, Sections 11(b) and 11(d) provide that all amendments proposed by a convention shall be transmitted to the States unless both Houses of Congress otherwise direct. See especially,

¹⁷ See *infra* p. 616 line 14. The Congress might consider the wisdom of granting the District of Columbia and the several territories and protectorates a number of non-voting delegates.

page 10, lines 5-12.¹⁸ While such provisions would be perfectly acceptable were there a general-subject convention, they encourage unconstitutional proposals by a limited subject-matter convention. Thus, a Balanced Budget Convention might submit an anti-abortion proposal; under Sections 11(b) and 11(d), unless *both* Houses of Congress disapproved, the anti-abortion proposal would go to the States. Therefore, it is suggested that Sections 11(b) and 11(d) be rewritten to provide that the Congress shall decide, within 30 days of its receipt of any proposed amendment, whether any such amendment is within the general subject matter to which the convention was limited and, if both Houses agree that the amendment is within the general subject matter, then the Administrator of General Services shall transmit such amendment to the States.

Section 11(d) provides that Congress shall not prescribe a period of ratification of less than four years; Section 12(a), by omission, seems to imply that Congress may not extend the period for ratification. As discussed above, the issue of the contemporaneousness is ultimately for a future Congress. The determination of what period *will be* sufficiently contemporaneous is for the Congress that receives the requisite number of ratifications or the Congress that considers whether to extend the period for receiving the requisite number of ratifications. However, as discussed above, I believe that the four-year period prescribed in Section 11(d) is a reasonable benchmark in today's America. It is suggested, however, that Section 12(a) be amended by inserting after the word "time" on page 11, line 16, the words "period or periods."¹⁹ This would indicate that there may in some circumstances be an extension of the period first specified by the Congress.

Section 13 provides impliedly that States may effectively rescind ratification and may effectively ratify after rejections. As with contemporaneousness, the effectiveness of

¹⁸ See *infra* p. 619 lines 2-9.

¹⁹ See *infra* p. 620 line 16.

such actions is for a future Congress. I am troubled that this Section will encourage States to treat ratifications or rejections lightly, on the belief that their actions may readily be undone. I would at least add to Section 13 a new subsection (c): "The effectiveness of any such rescission or ratification shall be determined by the Congress that receives the requisite number of ratifications. In order to make such determination, the Congress may request each State from which a ratification has been received to inform the Congress whether the State's ratification continues to reflect the will of the State legislature or convention, as the case may be."

E. *Judicial Review*

Section 15(a) provides that the States have a claim should Congress not act within the time periods provided in Sections 6 and 11. It is suggested that citizens too deserve a claim; they deserve a claim at least to challenge the constitutionality of a specific subject convention, the receipt of the requisite number of applications for a convention, the proposal of amendments beyond the general subject matter of specific-subject convention, the receipt of the requisite number of ratifications of amendments. While some of these issues may not be justiciable, it would be helpful to citizens seeking judicial review that the Congress has stated that it is not the exclusive decision-maker with respect to these issues. Furthermore, regarding all such citizen claims, Section 15 should specifically remove any prudential limitations on the exercise of jurisdiction. Provision should be made for a special three-judge court to hear such citizen claims, with direct appeal to the Supreme Court.

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**ORAL COMMENTS SUBMITTED TO THE SENATE
COMMITTEE OF THE JUDICIARY**

PROFESSOR COGAN. Mr. Chairman, I am privileged and honored to be asked by the Committee to testify with respect to S. 119. I do hope that I may be of assistance to all Members, on both sides of the aisle.

If I may, I would like to submit a written memorandum on S. 119, which you have indicated will be made part of the record.

SENATOR LEAHY. Thank you.

PROFESSOR COGAN. It was written several weeks ago and written with some expedition, because I was informed that the Committee was desirous of proceeding apace with this legislation. Expedition notwithstanding, the memorandum does state clearly, if not fully, my views with regard to S. 119.

Rather than speak to the specifics of that memorandum, I would, with permission of the chair, like to give some overview to the subject of a federal constitutional convention and congressional and state legislative control thereof, and then I would submit to questions.

I wish to make four points.

My first point really is a note of warning, in the nature perhaps of a Surgeon General's warning. This legislation is not legislation prescribing rules of conduct for citizens; this is legislation prescribing the structure of a constitutional body and the relationships of that body to the State legislatures and the Congress. As such, Congress must be aware — warned, if you like — that what it does may have little impact upon the body that is called into being. Rules of conduct for citizens are likely to be obeyed, and, if not, likely to be enforced by other branches. However, it is entirely possible that a convention will disregard this legislation and, despite the controls included therein, that the State legislatures and courts will disregard the controls and consider the convention's acts as lawful.

This is not a warning to do nothing, of course. Rather,

it is a warning to concentrate most closely on that which is most clearly within congressional control or power, and be aware of what is not within congressional control or power.

The second point is about powers under article V, and presumptions about them. The text of article V plainly gives to the State legislatures the power to trigger a convention. It is the State legislatures that make the applications.

The text plainly gives the Congress the power to determine whether the requisite number of applications has been received; after a proposal has been made, to determine whether the pertinent mode of ratification is by the State legislatures or State conventions; and, after consideration by the States, to determine whether the requisite number of ratifications has been received.

The text plainly gives the convention the power to propose amendments, in the plural; the text does not plainly give either the State legislatures, through the making of their applications, or the Congress, through its review of the applications, the power to limit the convention's proposing power. Indeed, it seems to me, as I said in the written memorandum, that the words and context of the words lead to the contrary conclusion.

Assuming, as must be conceded by all sides, however, that the text is not completely clear about a limited-subject convention, how should the issue be decided? I argue in the written memorandum that the Framers' understanding and the historical understanding accord with the conclusion that neither the State legislatures nor Congress has the power to limit the convention's proposing power.

But let me ask: assuming the text, the original and historical understandings are not clear — here I don't agree with the assumption, but assuming *arguendo* — is there some other source or rule to which we should look? It seems to me that we look to the theory of our frame of government, and that theory tells us that, in the absence

of words and understandings to the contrary, that power remains in the people. This, I believe, is an appropriate presumption in the adjudication of constitutional issues, and it is particularly apt with regard to amending the structures and relationships of government and the relationships of the people and their government.

S. 119 presumes the contrary. It presumes that the State legislatures can limit the subject matter of a convention, can choose the delegates, and with the cooperation of the Congress, can ratify those proposals.

One of the concepts that becomes very apparent in reading the debates of the Federal Convention was that choice by the State legislatures and choice by the people were viewed as very different methods by the Framers. This Senate was deliberately chosen by State legislatures for more than a century; the Framers knew how to specify control by State legislatures. Morris, Gerry, and Mason plainly understood that such State legislative control of proposing amendments were removed from the text.

S. 119 puts an inordinate amount of power in the hands of the State legislatures and out of the hands of the people; it tilts the balance between government and people against the people. Most respectfully, it is a radical proposal, a radical presumption.

Before I go on, however, let me say that I do not believe that State legislatures are forbidden to propose or suggest amendments; they can, of course, but they may not attempt to limit the convention to those proposals or those suggestion.

While I do not hope to persuade the proponents of S. 119 to abandon this legislation, I do hope that I can persuade them that at least Section 7(a), providing for the appointment of delegates by the State legislatures, is unconstitutional, because it gives to the States, to the State legislatures, control that they were not to have. It is also unconstitutional for the independent but parallel reason that it is now fundamental that general-purpose federal legislative bodies shall be chosen by popular election.

My third point is about contemporaneousness. Under article V, after applications or ratifications have been received, it is the duty of the Congress to determine whether the will of the people has been expressed. In deciding whether ratification should be by legislature or by convention, it is the duty of the Congress to determine how that will will be most effectively expressed.

While it is for the Congress that receives the requisite number of applications or ratifications to make the final congressional determination, it is plainly appropriate for this Congress to provide a benchmark for what period of time is sufficiently contemporaneous to constitute the expression of the will of the people. And it is plainly appropriate for this Congress to provide procedures for the accurate determination of that expression.

It seems to me that in 1984, a period of 14 years, as provided in Section 5(a) of S. 119, is not contemporaneous. Fourteen years ago, President Nixon was beginning his second year in office. We were about to invade Cambodia. Wage and price controls were yet to be imposed. ERA was yet to be proposed by the Congress. The Supreme Court had not yet decided whether busing was a constitutionally permissible remedy. If I may be permitted a note of personal reference, my oldest child, Jacob, who is here, was just 7 months old, and my daughter, Adina, who is here, was not yet born.

SENATOR LEAHY. Time goes by.

PROFESSOR COGAN. I am not sure that what happened then is contemporaneous with what is going on today.

Would an application for a convention, general or limited in subject, made in 1970 still be contemporaneous? I doubt it.

As I said in the written memorandum, four years, two sessions of a State legislature that meets every two years, as mine does in Texas, seems to me to be an appropriate benchmark — not binding on a future Congress, but of valuable guidance.

Importantly, too, it seems to me that when Walter

Cronkite can speak to Begin and Sadat on the evening news, as he did some years ago, then the Congress can institute a procedure whereby it can communicate with the State legislatures and determine whether their applications or ratifications are still effective and meaningful. It is very well for the Congress to examine carefully, and to ask constitutional law scholars to examine carefully, the applications or ratifications to determine their meaning and continued effectiveness. But we can do even better. This is far too important a subject to leave to speculation. In communicating with the State legislatures, I would submit that the Congress should include a warning—another Surgeon General's warning, if you like, perhaps a "general convention warning"—which should say at least that there is the possibility that a convention called will become a general convention. I have been to State legislative hearings, and I believe that the States that have submitted applications believe that they can limit the convention to a particular subject matter. The State legislatures should at least be informed that their limitation may not be effective.

My fourth and last point is about limiting a limited-subject convention to the limited subject matter. While I believe that the issue of whether there may be a limited-subject convention is justiciable—that is to say, I believe that the courts may decide whether a general convention is the only convention constitutional or whether a limited-subject convention is constitutional too—I am not at all sure that whether a limited-subject convention has remained within its subject matter limitation, is necessarily justiciable. It is therefore incumbent upon the Congress to keep a limited-subject convention within its subject. If the convention goes beyond its subject, it acts beyond its jurisdiction, so to speak, it acts without power, unconstitutionally.

Sections 11(b) and (d) do not treat that kind of action by a limited-subject convention with appropriate seriousness. Those sections provide that Congress may stop a

proposal from going to the States only by agreeing to a concurrent resolution. This, it seems to me, is backward. If Congress and the State legislatures may control the subject matter of the convention, then Congress may also provide that no proposals go to the States until the Congress votes affirmatively that the proposals are within the subject matter limitation, and determines the mode of ratification.

Finally, whether I am right or wrong about justiciability, it is important to have judicial review available to the extent constitutionally allowable, to the extent that the Supreme Court will determine that it is allowable. I would recommend that Section 15 be amended to grant to citizens claims of the kind I described in the memorandum and to remove any prudential limitations on the exercise of jurisdiction. As the Committee is aware, the Supreme Court, in the last decade, has imposed numerous prudential limitations, limitations not required by article III of the Constitution, prudential limitations upon the exercise of federal court jurisdiction. I would have, in this legislation, a provision that those limitations are removed.

With that overview, I am ready for questions. I thank the Committee once again for the privilege and honor of addressing it.

* * *

SENATOR LEAHY. Professor Cogan, let me ask you a question. You suggest to make the effective life of a State application 4 years instead of 7. You cite *Dillon v. Gloss*²⁰ which itself had a 7-year period. Most of our amendments proposed by Congress have a 7-year ratification period.

Why 4 years?

PROFESSOR COGAN. Originally, as was just mentioned, most amendments did not have any time limitation. Then the Congress began to include a limitation —7 years, as you mentioned, was the standard. Recently, with regard

²⁰ 256 U.S. 368 (1921).

to the ERA, Congress even extended the original 7-year period.

The function of the Congress, the clear function under article V, as I said earlier, is to determine what constitutes the contemporaneous expression of the will of the people; 7 years may have been a period that was once generally agreed upon by the Congress and by the country. I think things have changed, and I think 4 years is a better benchmark today.

But 4 years would only be a benchmark if my suggestion were adopted; it would not be binding upon any future Congress. I don't think this Congress can bind any future Congress, and a future Congress could determine that 4 years is not enough and that 6 years or 7 years or 10 years is better, or that 4 years is too much perchance and 2 years is better.

It just seems to me that in 1984, as many people have suggested—and I agree with them—that two sessions of a legislature that meets every 2 years is enough time to constitute the expression of the people's will, and that once you go beyond that, given the changing perceptions and the changing views of the legislatures of the country, and the people, that more than 4 years is no longer contemporaneous.

But whether one settles on 4, or 6, or 7, it seems to me that a bill which says 14 years goes clearly beyond the pale, as I tried to indicate earlier.

And if I could just say one more thing. It was suggested by Mr. Armor [another witness before the Committee] that not to recognize applications that were made 7 years ago, coming on 8 and 9 years ago now, is to change the rules. To the contrary, it seems to me, that with regard to this kind of important subject matter, Congress enforces the rules when it requires that the States that made applications 8 or 9 years ago reaffirm their applications; *r.s.v.p.* again; say whether they still mean it. It seems to me that with regard to calling a constitutional convention that it is

in the interest of the country to ask the States to tell us once again whether they want this particular convention.

Or, with regard to your questioning of Mr. Armor about the subject matter of a convention — how limited it shall be, what the text shall be, and so on — if the Congress should submit a particular subject to a convention, why not first submit to the States calling for a convention what the Congress determines is the lesser included subject matter and ask whether this is the subject matter for which they are applying?

SENATOR LEAHY. You said that delegates to conventions should be popularly elected if the process is to be fair and just, and that is a question that is a good public policy argument—but is there anything that requires that in article V?

PROFESSOR COGAN. I should, in responding to the Senator from Vermont, be careful with regard to proportional representation; clearly, Vermont would not be favored by my suggestion.

Article V does not speak to that subject. The debates at the Federal Convention, as I guess everyone learns at some time during one's life, resulted in the Great Compromise, and the result of that Great Compromise is the fact that this Senate has representation in equal numbers from each of the States. There is no indication whatsoever, of course, that—

SENATOR LEAHY. Some of us like to think that just simply reflects the basic worth of our people— that's terribly self-serving. Go ahead with your statement.

PROFESSOR COGAN. Actually, my own view is that the Framers in the end did agree that the interests of some districts—and Vermont, in a sense, is one district—deserved greater influence than the interests of other districts of equal numbers—but that, as you say, is another subject.

But going back to the question. There is nothing in the debates to indicate that the Great Compromise was to ap-

ply to the convention. So, the debate leaves us, and the text leaves us, without an answer.

But I think the answer perhaps is supplied, as I indicated earlier, by another source. I think over the course of time we have concluded that the Framers' compromise is no longer the way we wish people's interests to be represented in this country. In the Senate we have kept it, and kept it perhaps for good reason, but with regard to other legislative bodies, both at a state and at a federal level, we have not. It seems to me that part of that notion that has become fundamental is that people should be represented equally.

SENATOR LEAHY. But if you do that in this day as a practical political matter, doesn't that almost guarantee that small States, very small States, are going to hesitate a long time before they call for a constitutional convention, knowing that the checks and balances which they now have at the federal level only in the Senate would be wiped out entirely in a constitutional convention. A lot of small state power is going to be diminished anyway in a constitutional convention, based on the number of Representatives and Senators, because, to use Vermont and California as an example, that still makes something like a 45-to-3 ratio. But what you are urging would make it 45 to 1.

Won't the small States be a tad hesitant of those circumstances?

PROFESSOR COGAN. Well, in terms of the Senate of the United States, article V does prohibit equal State representation from being changed.

SENATOR LEAHY. No; I understand that — article V makes it very clear that you can't do this to do away, in effect to do away with the way the Senate is selected. Not do away with the two votes.

But what I am saying is that you are diminishing representation in a constitutional convention. I mean, at this point, if you are a little tiny State, you are a little tiny State when you get to the constitutional convention. The Con-

stitution cannot be amended to do away with your Senate representation. Every State is still going to have two Senators. But as far as the constitutional convention is concerned, there is nothing whatsoever that gives any level of equality from State to State; it would be purely based on, in your estimation, population.

PROFESSOR COGAN. That's right. Certainly the bill, as presently proposed, gives Vermont and other small States 2 more delegates so they get 3 delegates to California's 40-odd. But one should not forget, however, that any proposal would still have to be ratified, whether by State legislatures or by conventions. And those ratifications by legislatures or conventions would have to command three-fourths of the States, so that the small States would still have the opportunity—

SENATOR LEAHY. That's where they get their shot.

PROFESSOR COGAN. They would have their protection there.

* * *

SENATOR LEAHY. Let me ask a question In my opening statement I went down through the differences between the Ervin Bill and S. 119. One was the Ervin Bill's requirement that amendments be proposed by a supermajority vote of the convention.

Do you think the Congress has the constitutional authority to impose a supermajority voting requirement on the convention?

PROFESSOR COGAN. I think not. I think the Congress does not have control over the deliberative function of the convention, and clearly requiring a supermajority is one of the most powerful means of control.

* * *

PROFESSOR COGAN. It seems to me that you have to trust the convention once it is in being. The Framers themselves were unhappy with slim majorities. During the first part of the convention, many proposals that small States did not favor were passed by 6-5 votes. And I think the Framers saw that that was not good, and so they re-

cessed for a few days, and they caucused and they prayed, and they reached a compromise eventually. And, indeed, the Constitution as we have it didn't even have a vote at the end; it was just consented to by the delegates.

Although, were I a legislator, I would like to impose a two-thirds rule, I don't think I could. I think I would trust them not to kick out things that were passed by slim majorities.

SENATOR LEAHY. Let me ask a question . . . Who has the authority under article V to review the adequacy and the validity of State applications for a constitutional convention? In the Ervin Bill it's Congress, in S. 119 the States themselves.

PROFESSOR COGAN. It's the Congress. The Congress has the duty under article V to review the validity of applications. That is its function with regard to applications, ratifications, and modes of ratification, to determine whether the will of the people has been expressed.

And your questions earlier with regard to what is the will, what is the subject matter that is being called for, were very appropriate. It is your duty to make the determination.

* * *

With regard to the internal procedures of the States, if I understand that to be the thrust of the question, I am in general agreement that the Congress can't review the processes within the State legislatures. However, I think the Congress does have some power, for example, to require that an application be the expression of the majority of a State legislature and perhaps certain other similar requirements.

But, for example, whether an application begins in a State house or senate, those kinds of questions are really not for Congress.

SENATOR LEAHY. Who makes the final decision when somebody says, "Look, we have got 34 applications here," on one side, and somebody else says: "No, you don't have 34, you have got 20 calling for this and 14 calling for

that,” and somebody else says: “no, no, no, you have got maybe 20 calling for this and 14 calling for that”?

Who makes the determination that, OK, we have 34 bottom line calls for a constitutional convention to do at least—whatever?

PROFESSOR COGAN. I may regret this at some later point, but I do believe it is the Congress’ judgment with regard to that, and I do believe that most of the questions you have described are nonjusticiable. So the buck will stop here.

By contrast, I believe that with regard to the Congress’ judgment whether there can be a limited subject convention, as opposed to a general subject convention—I believe that is justiciable and can be decided by the Court.

But with regard to Congress’ determination that such and such is the limited subject matter, or we have so many proper applications and the rest are not proper—I think that is your duty, and I think the buck stops with you.

Appendix A

S.119 (98th Cong., 1st Sess.)*

A BILL

To provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the United States Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Constitutional Convention Implementation Act of 1981 1984”.

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

Sec. 2. (a) The legislature of a State, in making applica-

* Material lined through is material omitted from the bill as reported by the Senate Judiciary Committee; material italicized (except for the introductory clause) is material added to the bill as reported.

tion to the Congress for a constitutional convention under article V of the Constitution of the United States, for the purpose of proposing one or more specific amendments shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more specific amendments to the Constitution of the United States and stating the ~~general~~ subject *matter* of the amendment or amendments to be proposed.²¹

(b) The procedures provided by this Act are required to be used whenever application is made to the Congress, under article V of the Constitution of the United States, for the calling of any convention for the purposes of proposing one or more specific amendments to the Constitution of the United States, each applying State stating in the terms of its application the ~~general~~ subject *matter* of the amendment or amendments to be proposed.²² This Act is not intended to apply to applications requesting a convention for any other purpose under article V of the Constitution.

APPLICATION PROCEDURE

Sec. 3. (a) The rules of procedure governing the adoption or withdrawal of a resolution pursuant to section 2 and section 5 of this Act are determinable by the State legislature except that the assent of the Governor *as to any application or withdrawal* shall be necessary.

(b) Questions concerning compliance with the rules governing the adoption or withdrawal of a State resolution cognizable under this Act are determinable by the State legislature, *except that questions concerning the fact of final*

²¹ In testimony before state legislative committees, Professor Cogan has said that applications for a convention that are not applications for a general convention are not valid. In his testimony before the Judiciary Committee, he made it clear, however, that applications might suggest specific amendments so long as the applications did not limit the convention to the subject matter of the suggestion. See *supra* pp. 590-91, 602-03.

²² Professor Cogan testified that it was unconstitutional for Congress to limit a convention to a general subject. See *supra* pp. 590-93, 602-03.

*approval of such resolution by no less than a majority vote of each House of such legislatures shall be determinable by the Congress of the United States.*²³

TRANSMITTAL OF APPLICATIONS

Sec. 4. (a) Within thirty days after the ~~adoption~~ *effective date of the resolution adopted* by the legislature of a State ~~of a resolution to apply for the calling of a~~ the constitutional convention, the secretary of state of the State, or, if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain —

(1) the title of the resolution, the exact text of the resolution signed by the presiding officer of each house of the State legislature, the date on which the legislature adopted the resolution, and a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution; and

(2) to the extent practicable, and if desired, a list of all State applications in effect on the date of adoption whose subject or subjects are substantially the same as the subject ~~or subjects~~ *matter* set forth in the application.

(c) Within ten days after receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the ~~general~~ *subject matter* of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker

²³ Professor Cogan testified that Congress' limited authority to review the internal procedures of the State legislatures *did* include the authority to determine whether a majority of the legislature supported the application. This testimony was adopted here. See *supra* p. 610.

of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislature of every other State and to each Member of the Senate and House of Representatives of the Congress of the United States.

EFFECTIVE PERIOD OF APPLICATION

Sec. 5. (a) An application submitted to the Congress by a State, unless sooner withdrawn by the State legislature, shall remain effective for the lesser of the period specified in such application by the State legislature or for a period of seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same ~~general~~ subject *matter* all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 6 of this Act, calling for a constitutional convention. ~~An application which has~~ *Provided, however, that those applications which have* not been before the Congress for more than ten years on the effective date of this Act shall be effective for ~~either the period specified in the first sentence of this section or for four years from the effective date of this Act, whichever is greater~~ *a period of not less than two years.*²⁴

(b) A State may withdraw its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of withdrawal in conformity with the procedures specified in sections 3 and 4 of this Act, except that no such withdrawal shall be effective as to any valid application made for a constitutional convention upon any subject after the date on which two-thirds or more of the State legislatures have valid applications

²⁴ Professor Cogan testified that the bill as originally filed, allowed an application to be contemporaneous fourteen years after submission; he opposed that period as a contemporaneous period and, we are told, opposes the reduced period of twelve years.

pending before the Congress seeking amendments on the same ~~general~~ subject *matter*.

CALLING OF A CONSTITUTIONAL CONVENTION

Sec. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each ~~general~~ subject *matter*. Whenever applications made by two-thirds or more of the States with respect to the same ~~general~~ subject matter have been received, the Secretary and the Clerk shall so report within five days, in writing to the officer to whom those applications were transmitted, and such officer ~~within five days thereupon, no latter than the fifth day subsequent to the receipt of such report during which the House of which he is an officer is in session, shall announce its substance on the floor of the House of which he is an officer the substance of such report.~~ It shall than be the duty of such House to determine ~~that~~ *whether*²⁵ there are in effect valid applications made by two-thirds of the States with respect to the same ~~general~~ subject *matter*. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same ~~general~~ subject *matter*, it shall be the duty of that House, within forty-five calendar days following *the day on which the report of the Clerk and or the Secretary was announced on the floor of the House*, to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that ~~general~~ subject *matter*. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the ~~general~~ subject *matter*

²⁵ Professor Cogan suggested this change of language. See *supra* p. 595.

of the amendment or amendments for the consideration of which convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than eight months after adoption of the resolution.

DELEGATES

Sec. 7. (a) ~~Each State shall appoint, in such manner as the legislature thereof may direct, a number of delegates, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. In each State two delegates shall be elected on an at-large basis and one delegate shall be elected from each congressional district in the manner provided by State law.~~²⁶ No Senator or Representative, or person holding an office of trust or profit under the United States, shall be ~~appointed~~ *elected* as delegate. Any vacancy occurring in a State delegation shall be filled by appointment of the legislature of that State.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function, shall certify to the President of the Senate and the Speaker of the House of Representatives the name of each delegate elected or appointed by the legislature of the State pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

²⁶ Professor Cogan testified in support of election of delegates, which testimony was adopted; he testified against non-proportionate representation, which testimony was not adopted. See *supra* pp. 595-97, 603.

CONVENING THE CONVENTION

Sec. 8. (a) ~~Of those persons serving as chief justices of the highest courts of the States, the person who is senior in years of service as such a chief justice~~ *The President Pro Tempore of the United States Senate and the Speaker of the United States House of Representatives shall jointly convene the constitutional convention. He* *They* shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to comply with the Constitution of the United States. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt: *by vote of three-fifths of the number of delegates who have subscribed to the oath of office.*²⁷

(b) ~~No Federal funds may be appropriated specifically for the purposes of payment of the expenses of the convention. The convention shall be responsible for apportioning its costs among the States.~~ *There is hereby authorized to be appropriated such sums as may be necessary for the payment of the expenses of the convention, including payment to each delegate of an amount of pay equal to that for Members of Congress prorated for the term of the convention, as well as necessary travel expenses for such delegates. In the event that such sums are not appropriated in a timely manner, or are appropriated subject to additional conditions, the convention shall be authorized to apportion its costs among the States.*

(c) The Administrator of General Services shall provide such facilities, and the Congress and each executive department, agency, or authority of the United States shall provide such information and assistance as the convention may require, upon written request made by the elected presiding officer of the convention.

²⁷ Professor Cogan testified that this change was unconstitutional. See *supra* p. 609.

PROCEDURES OF THE CONVENTION

Sec. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within six months after convening unless the period is extended by concurrent resolution of the Congress of the United States upon request from the convention.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

Sec. 10. No convention called under this Act may propose any amendment or amendments of a ~~general~~ subject *matter* different from that stated in the concurrent resolution calling the convention.

APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

Sec. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b) Whenever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, ~~the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of General Services upon the expiration of the first period of thirty days of continuous session of the~~

~~Congress following the date of receipt of such amendment. Within that period both Houses of the Congress may agree to a concurrent resolution stating that the Congress does not direct the submission of such proposed amendment to the States because such proposed amendment relates to or includes a general subject which differs from or was not included as one of the general subjects named or described in the concurrent resolution of the Congress by which the convention was called. Such resolution shall be transmitted to the legislatures of the States and the Administrator of General Services the Congress shall in as expeditious a manner as possible, but in any case within six months thereafter, adopt a concurrent resolution —~~

(i) directing the Administrator of General Services to transmit forthwith to each of the several States a duly certified copy thereof, and a copy of any concurrent resolution agreed to by both Houses of Congress which prescribes the mode in which such amendment shall be ratified and the time within which such amendment shall be ratified in the event that the amendment itself contains no such provision. In no case shall such a resolution prescribe a period for ratification of less than four years; or

(ii) stating that the Congress does not direct the submission of such proposed amendment to the States because such proposed amendment related to or includes subject matter which differs from or was not included in the subject matter named or described in the concurrent resolution of the Congress by which the convention was called.²⁸

~~(c) For the purposes of subsection 11(b), (i) the continuity of a session of the Congress shall be broken only by an adjournment of the Congress sine die, and (ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the period of thirty days. In the event that the Congress has not passed a concurrent resolution under subsection (b)(i) within the time prescribed~~

²⁸ On the assumption that Congress has authority to limit the subject matter of conventions, Professor Cogan suggested new section 11(b) in order to authorize Congress to control limited subject-matter conventions after such conventions meet, as well as before they meet. See *supra* pp. 597-98.

therein, during the thirty days following any State may commence an action under section 15 of this Act seeking a declaration that the proposed amendment is consistent with the concurrent resolution by the Congress by which the convention was called and directing its submission to the States for ratification.

~~(d) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, and a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the mode in which such amendment shall be ratified, unless the Administrator has also received a concurrent resolution pursuant to subsection 11(b) stating that Congress does not direct the submission of such proposed amendment to the States. Such concurrent resolution may also prescribe the time within which such amendment shall be ratified in the event that the amendment itself contains no such provision. In no case shall such a resolution prescribe a period for ratification of less than four years.~~

(d) Notwithstanding the issuance of such order, the mandate of the Court shall not issue prior to the expiration of the first period of thirty days following the date on which such order is issued. Congress may during such thirty-day period, adopt a concurrent resolution prescribing the mode in which such amendment shall be ratified, and the time within which the amendment shall be ratified in the event that the amendment itself contains no such provision. In no case shall such a resolution prescribe a period for ratification of less than four years.

*(e) In the event that the Congress has not adopted a concurrent resolution under subsection (d) within the time prescribed therein, the mandate for such order shall issue forthwith. The mode for ratification in such case shall be by action of the legislatures of three-fourths of the States within a period of seven years, unless the amendment itself contains a different period.*²⁹

²⁹ New sections 11(c) through 11(e) were necessitated by the suggested change in section 11(b).

RATIFICATION OF PROPOSED AMENDMENTS

Sec. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified consistent with the provisions of article V of the Constitution of the United States.

(b) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATIONS

Sec. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, unless specified otherwise by such State, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal *or may have rescinded a prior ratification thereof*.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

Sec. 14. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

JUDICIAL REVIEW

Sec. 15. (a) Any State aggrieved by any determination or finding, or by any failure of Congress to make a deter-

mination or finding within the periods provided, under section 6 or section 11 of this Act may bring an action in the Supreme Court of the United States against the Secretary of the Senate and the Clerk of the House of Representatives or, where appropriate, the Administrator of General Services, and such other parties as may be necessary to afford the relief sought. Such an action shall be given priority on the Court's docket.

(b) Every claim arising under this Act shall be barred unless suit is filed thereon within sixty days after such claim first arises.

(c) The right to review by the Supreme Court provided under subsection (a) does not limit or restrict the right to judicial review of any other determination or decision made under this Act or such review as is otherwise provided by the Constitution or any other law of the United States.

EFFECTIVE DATE OF AMENDMENTS

Sec. 16. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

Appendix B

ALASKA H.J.R. 17 AM S (1982):

Relating to an amendment to the Constitution of the United States which would require that total federal appropriations not exceed total estimated federal revenues in a fiscal year in the absence of a national emergency.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS annually the United States moves more deeply into debt as its expenditures exceed its available revenues and the public debt now exceeds hundreds of billions of dollars; and

WHEREAS annually the federal budget demonstrates the unwillingness or inability of the federal government to spend in conformity with available revenues; and

WHEREAS proper planning, fiscal prudence, and plain good sense requires that the federal budget be in balance absent national emergency; and

WHEREAS a continuously unbalanced federal budget except in a national emergency causes continuous and damaging inflation and consequently a severe threat to the political and economic stability of the United States; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Constitution may be proposed by Congress or, on the application of the legislatures of two-thirds of the states, Congress shall call a constitutional convention for the purpose of proposing amendments;

BE IT RESOLVED by the Alaska State Legislature that the Congress of the United States is requested to propose and submit to the states an amendment to the Constitution of the United States which would require that within four years after its ratification by the various states, in the absence of a national emergency, the total of all appropriations made by Congress for a fiscal year shall not exceed

the total of all estimated federal revenues for that fiscal year; and be it

FURTHER RESOLVED that, alternatively, this body makes application and requests that the Congress of the United States call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the total of all appropriations made by Congress for a fiscal year shall not exceed the total of all estimated federal revenues for that fiscal year; and be it

FURTHER RESOLVED that if Congress proposes such an amendment to the Constitution this application shall no longer be of any force or effect; and be it

FURTHER RESOLVED that this application and request shall no longer be of any force or effect if the convention is not limited to the exclusive purpose specified by this resolution.

COPIES of this resolution shall be sent to the Secretary of the United States Senate; the Clerk of the United States House of Representatives; to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

ARIZONA S.J.R. 1002 (1979):

A JOINT RESOLUTION
REQUESTING THE CONGRESS OF THE UNITED STATES TO PROPOSE AN AMENDMENT TO THE UNITED STATES REQUIRING THAT IN THE ABSENCE OF A NATIONAL EMERGENCY THE TOTAL OF ALL FEDERAL APPROPRIATIONS FOR ANY FISCAL YEAR MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES FOR THAT FISCAL YEAR.

Whereas, with each passing year this nation becomes more deeply in debt as its expenditures grossly and re-

peatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

Whereas, fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat facing our nation; and

Whereas, constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

Whereas, under Article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments.

Therefore

Be it resolved by the Legislature of the State of Arizona:

1. That the Congress of the United States institute procedures to add a new article to the Constitution of the United States and that the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

2. That, alternatively, the Congress of the United

States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

3. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this joint Resolution then this petition for a constitutional convention shall no longer be of any force or effect.

4. That the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the federal Constitution or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal Constitution.

5. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States Senate, the Speaker of the House of Representatives of the United States, to each Member of the Arizona Congressional Delegation and to the Secretary of State and the presiding officers of both houses of the legislature of each of the other states in the Union.

ARKANSAS H.J.R. 1 (1979):

HOUSE JOINT RESOLUTION
REQUESTING APPROPRIATE ACTION BY THE CONGRESS, EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES, OR, UPON THE APPLICATION OF THE LEGISLATURES OF TWO-THIRDS OF THE SEVERAL STATES, CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMEND-

MENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR.

WHEREAS, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraints is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital; NOW THEREFORE, BE IT RESOLVED BY THE SEVENTY-SECOND GENERAL ASSEMBLY OF THE STATE OF ARKANSAS;

THAT this Body proposes to the Congress of the United States that procedures be instituted in the Con-

gress to add a new Article to the Constitution of the United States, and that the General Assembly of the State of Arkansas requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and BE IT FURTHER RESOLVED:

THAT, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and BE IT FURTHER RESOLVED:

THAT this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution, or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and BE IT FURTHER RESOLVED:

THAT copies of this Resolution be sent by the Secretary of State to the Arkansas Congressional Delegation; and BE IT FURTHER RESOLVED:

THAT the Secretary of State of the State of Arkansas is directed to send copies of this Joint Resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other States in the Union, the Clerk of the United States House of Representatives, Washington, D.C., and the Secretary of the United States Senate, Washington, D.C.

COLORADO S.J.M. 1 (1978):

WHEREAS, With each passing year this nation be-

comes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, The annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, Convinced that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the federal constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary or on the application of the legislatures of two-thirds of the several States that the Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid of all intents and purposes when ratified by the legislatures of three-fourths of the several states; now, therefore,

Be It Resolved by the Senate of the Fifty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

That the Congress of the United States is hereby memorialized to call a constitutional convention pursuant to Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Federal Constitution prohibiting deficit spending except under conditions specified in such amendment.

Be It Further Resolved, That this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

Be It Further Resolved, That copies of this memorial be sent to the Secretary of State and presiding officers of

both Houses of the Legislatures of each of the several states in the union, the clerk of the United States House of Representatives, the Secretary of the United States Senate, and to each member of the Colorado Congressional Delegation.

DELAWARE H.C.R. 36 (1976):

APPLYING TO THE CONGRESS FOR A CONVENTION TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

BE IT RESOLVED by the House of Representatives of the 128th General Assembly, the Senate concurring therein, that the General Assembly of the State of Delaware hereby, and pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

“ARTICLE —

The costs of operating the Federal Government shall not exceed its income during any fiscal year, except in the event of declared war.”

BE IT FURTHER RESOLVED that this application by the General Assembly of the State of Delaware constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

BE IT YET FURTHER RESOLVED that since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and, since the power to use such right in full also carries the power to use such right

in part, the General Assembly of the State of Delaware interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions.

BE IT YET FURTHER RESOLVED that a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States.

FLORIDA S.M. 234 (1976):

A memorial to the Congress of the United States making application to the Congress to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions thereto.

WHEREAS, it is estimated, as of August, 1975, that the federal debt at the end of the 1975 fiscal year will be \$558,637 billion; and

WHEREAS, the fiscal year deficit for 1976 will be the largest in our history, between \$70 and \$80 billion, and

WHEREAS, the growing debt is a major contributor to inflation, lagging economic investment, excessive interest rates, and the resulting unemployment, and

WHEREAS, the economic welfare of the United States and its citizens depends on a stable dollar and sound economy, and

WHEREAS, the National Conference of State Legislatures passed Resolution #11 at its Annual Business Meeting on October 10, 1975, urging the Congress to take

prompt and affirmative action to limit federal spending, and

WHEREAS, there is provision in Article V of the Constitution of the United States for amending the Constitution by the Congress, on the application of the legislatures of two-thirds of the several states, calling a convention for proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, NOW, THEREFORE, Be it Resolved by the Legislature of the State of Florida:

That the Legislature of the State of Florida does hereby make application to the Congress of the United States pursuant to Article V of the Constitution of the United States to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the presiding officers of the Senate and the House of Representatives of Congress, the members of the Congressional delegation from the State of Florida and to the presiding officers of each house of the several state legislatures.

GEORGIA H.R. 469-1267 (1976):

A RESOLUTION

Applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA;

That this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the

Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

BE IT FURTHER RESOLVED that this application by the General Assembly of the State of Georgia constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Resolution before January 1, 1977, this petition for a Constitutional Convention shall no longer be of any force or effect.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is hereby authorized and instructed to transmit a duly attested copy of this Resolution to the Secretary of the Senate of the United States Congress, the Clerk of the House of Representatives of the United States Congress, to the Presiding Officer of each House of each State Legislature in the United States, and to each member of the Georgia Congressional Delegation.

IDAHO H.C.R. 7 (1979):

A CONCURRENT RESOLUTION
FOR THE PURPOSE OF REQUESTING APPROPRIATE ACTION BY THE CONGRESS, EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES, OR, UPON THE APPLICATION OF THE LEGISLATURES OF TWO-THIRDS OF THE SEVERAL STATES, CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the Legislatures of two-thirds of the several states the Congress shall call a Constitutional Convention for the purpose of proposing amendments. We believe such action vital.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-fifth Idaho Legislature, the House of Representatives and the Senate concurring, that the Legislature proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the legislature requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, re-

quiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED, that, alternatively, the Legislature makes application and requests that the Congress of the United States call a Constitutional Convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED, that this application by this Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the Legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this resolution then this petition for a Constitutional Convention shall no longer be of any force or effect; and

BE IT FURTHER RESOLVED, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and

BE IT FURTHER RESOLVED, that this Legislature also proposes that the Legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or require the Congress to call a Constitutional Convention for proposing such an amendment to the Federal Constitution; and

BE IT FURTHER RESOLVED, that the Clerk of the House of Representatives be and he is hereby directed to forward copies of this resolution to the Secretary of State and presiding officers of both Houses of the Legislatures of each of the other States in the Union, the Speaker of

the United States House of Representatives, the President of the United States Senate, and the members of the Congress of the United States representing the State of Idaho.

INDIANA S.J.R. 8 (1979):

A JOINT RESOLUTION requesting the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States to the effect that, in the absence of a national emergency, the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The General Assembly of the State of Indiana makes application to the Congress of the United States for a convention to be called under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Constitution to the effect that, in the absence of a national emergency, the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year.

SECTION 2. The Secretary of the Senate is instructed to transmit a certified copy of this joint resolution to the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, the presiding officer of each chamber of each state legislature in the United States, and each member of the Indiana congressional delegation.

IOWA S.J.R. 1 (1979):

A JOINT RESOLUTION

FOR THE PURPOSE OF REQUESTING APPROPRIATE ACTION BY THE CONGRESS, EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES OR, ON THE APPLICATION OF THE LEGISLATURES

OF TWO-THIRDS OF THE SEVERAL STATES, CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE FEDERAL BUDGET BE BALANCED.

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is one of the greatest threats which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article five (V) of the Constitution of the United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the congress shall call a constitutional convention for the purpose of proposing when ratified by three-fourths of the several states, and we believe such action is vital;
NOW THEREFORE,

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. The Iowa general assembly proposes to the Congress of the United States that procedures be instituted in the Congress to propose and submit to the several states before July 1, 1980, an amendment to the Constitution of the United States requiring that the federal budget be balanced in the absence of a national emergency.

Sec. 2. Alternatively, effective July 1, 1980, if the Congress of the United States has not proposed and submitted to the several states an amendment as provided in section one (1) of this resolution, the Iowa general assembly respectfully makes application to and petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

Sec. 3. Effective July 1, 1980, this application by the Iowa general assembly constitutes a continuing application in accordance with Article five (V) of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made similar applications pursuant to Article five (V), but if the Congress proposes an amendment to the Constitution identical in subject matter to that contained in this resolution, or if before July 1, 1980, the general assembly repeals this application to call a constitutional convention, then this application and petition for a constitutional convention shall no longer be of any force or effect.

Sec. 4. This application and petition shall be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

Sec. 5. The Iowa general assembly also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the federal constitution, or requiring the Congress to call a constitu-

tional convention for proposing such an amendment to the federal Constitution if the Congress of the United States has not proposed and submitted to the several states an amendment as provided in section one (1) of this resolution before July 1, 1980.

Sec. 6. The secretary of state of Iowa is directed to send copies of this resolution to the secretary of state and presiding officers of both houses of the legislatures of each of the several states in the union, the speaker and the clerk of the United States House of Representatives, the President and Secretary of the United States Senate, and each member of the Iowa congressional delegation.

KANSAS S.C.R. 1661 (1978):

A CONCURRENT RESOLUTION requesting and applying to the Congress of the United States to propose, or to call a convention for the purpose of proposing an amendment to the Constitution of the United States which would require that, in the absence of a statutorily defined national emergency, total federal appropriations shall not exceed total estimated federal revenues in a fiscal year.

WHEREAS, Annually the United States moves more deeply in debt as its expenditures exceed its available revenues and the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, Annually the federal budget demonstrates the unwillingness or inability of the federal government to spend in conformity with available revenues; and

WHEREAS, Proper planning, fiscal prudence and plain good sense require that the federal budget be in balance absent national emergency; and

WHEREAS, A continuously unbalanced federal budget except in a national emergency causes continuous and damaging inflation and consequently a severe threat to the political economic stability of the United States; and

WHEREAS, Under Article V of the Constitution of the United States, amendments to the Constitution may be proposed by the Congress whenever two-thirds of both

Houses deem it necessary or, on the application of the legislatures of two-thirds of the states, the Congress shall call a constitutional convention for the purpose of proposing amendments: Now, therefore,

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the Congress of the United States is hereby requested to propose and submit to the states an amendment to the Constitution of the United States which would require that within five years after its ratification by the various states, in the absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total of all estimated federal revenues for such fiscal year; and

Be it further resolved: That, alternatively, the legislature of the State of Kansas hereby makes application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total of all estimated federal revenues for such fiscal year. If the Congress shall propose such an amendment to the Constitution, this application shall no longer be of any force or effect; and

Be it further resolved: That the legislature of each of the other states in the Union is hereby urged to request and apply to the Congress to propose, or to call a convention for the sole and exclusive purpose of proposing, such an amendment to the Constitution; and

Be it further resolved: That the Secretary of State be directed to transmit copies of this resolution to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, each member of the Kansas delegation in the United States Congress and the secretary of state and presiding officers of each house of the legislature of each state.

LOUISIANA S.C.R. 4 (1979):

A CONCURRENT RESOLUTION

To memorialize and apply to the Congress of the United States to take appropriate action, either acting by consent of two-thirds of both House or, upon the application of the legislatures of two-thirds of the several states, to call a constitutional convention to propose an amendment to the federal constitution to require, with certain exceptions, that the federal budget be balanced.

WHEREAS, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation. The Louisiana Legislature firmly believes that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all

intents and purposes when ratified by three-fourths of the several states.

THEREFORE, BE IT RESOLVED by the Senate of the Legislature of the State of Louisiana, the House of Representatives thereof concurring, that the Congress of the United States institute procedures to propose and submit to the several states an amendment to the Constitution of the United States requiring that the federal budget be balanced in the absence of a national emergency.

BE IT FURTHER RESOLVED that, alternatively, this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

BE IT FURTHER RESOLVED, that this application by the Louisiana Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Resolution, then this petition for a constitutional convention shall no longer be of any force or effect.

BE IT FURTHER RESOLVED, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

BE IT FURTHER RESOLVED, that the Louisiana Legislature also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal Constitution.

BE IT FURTHER RESOLVED that a duly attested copy of this Resolution be immediately transmitted to the pres-

ident of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to the presiding officer of each house of each state Legislature in the United States.

MARYLAND S.J.R. 4 (1975):

A Senate Joint Resolution concerning [the] Budget of the United States.

For the purpose of requesting appropriate action by the Congress, on its own action by consent of two-thirds of both Houses or on the application of the legislatures of two-thirds of the several states, to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions.

WHEREAS, With each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars.

Attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress.

The annual federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues. The unified budget of 304.4 billion dollars for the current fiscal year does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit.

As reported by US News and World Report on February 25, 1974, of these nonbudgetary outlays in the amount of 15.6 billion dollars, the sum of 12.9 billion dol-

lars represents funding of essentially private agencies which provide special service to the federal government.

Knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance.

Believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend.

Under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That this Body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article XXVII to the Constitution of the United States, and that the General Assembly of Maryland requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year; and be it further

RESOLVED, That this Body further alternatively requests that the Congress of the United States call a constitutional convention for the specific and *exclusive* purpose of proposing such an amendment to the Federal Constitution, to be a new Article XXVII; and be it further

RESOLVED, That this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requiring it to call a

constitutional convention for proposing such an amendment to the Federal Constitution, to be a new Article XXVII; and be it further

RESOLVED, That the proposed new Article XXVII (or whatever numeral may then be appropriate) read substantially as follows:

PROPOSED ARTICLE XXVII

“The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing; and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President, in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article if the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all Members elected to each House of the Congress so determine by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year.”

and, be it further

RESOLVED, That copies of this Resolution under the Great Seal of the State of Maryland, be sent by the Secretary of State to: [names of persons omitted]; and be it further

RESOLVED, That under the Great Seal of the State of Maryland, the Secretary of State is directed to send copies of this Joint Resolution to the Secretary of State and to the presiding officers of both Houses of the Legislature of each of the other States in the union, with the request that it be circulated among leaders in the Executive and Legislative branches of the several State governments; and with the further request that each of the other States in the Union join in requiring the Congress of the United States

to call a constitutional convention for the purpose of initiating a proposal to amend the Constitution of the United States in substantially the form proposed in this Joint Resolution of the General Assembly of Maryland.

MISSISSIPPI H.C.R. 51 (1975):

A CONCURRENT RESOLUTION APPLYING TO THE CONGRESS FOR A CONVENTION TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

WHEREAS, an ever-increasing public debt is inimical to the general welfare of the people of the United States; and

WHEREAS, the national debt is already dangerously high and any further increases will be harmful and costly to the people of the United States; and

WHEREAS, a continuous program of deficit financing by the Federal Government is one of the greatest factors supporting the inflationary conditions presently existing in this country and therefore has been the chief factor in reducing the value of the American currency; and

WHEREAS, payment of the increased interest required by the ever-increasing debt would impose an undue hardship on those with fixed incomes and those in lower income brackets; and

WHEREAS, it is not in the best interest of either this or future generations to continue such a practice of deficit spending particularly since this would possibly deplete our supply of national resources for future generations; and

WHEREAS, by constantly increasing deficit financing the Federal Government has been allowed to allocate considerable funds to wasteful and in many instances non-beneficial public programs; and

WHEREAS, by limiting the Federal Government to spend only the revenues that are estimated will be collected in a given fiscal year, except for certain specified emergencies, this could possibly result in greater selectiv-

ity of Federal Government programs for the benefit of the public and which would depend upon the willingness of the public to pay additional taxes to finance such programs; and

WHEREAS, there is provision in Article V of the Constitution of the United States for amending the Constitution by the Congress, on the application of the legislatures of two-thirds ($2/3$) of the several states, calling a convention for proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths ($3/4$) of the several states, or by conventions in three-fourths ($3/4$) thereof, as the one or the other mode of ratification may be proposed by the Congress:

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MISSISSIPPI, THE SENATE CONCURRING THEREIN, That we do hereby, pursuant to Article V of the Constitution of the United States, make application to the Congress of the United States to call a convention of the several states for the proposing of the following amendment to the Constitution of the United States:

“ARTICLE —

SECTION 1. Except as provided in Section 3, the Congress shall make no appropriation for any fiscal year if the resulting total of appropriations for such fiscal year would exceed the total revenues of the United States for such fiscal year.

SECTION 2. There shall be no increase in the national debt and such debt, as it exists on the date on which this article is ratified, shall be repaid during the one-hundred-year period beginning with the first fiscal year which begins after the date on which this article is ratified. The rate of repayment shall be such that one-tenth ($1/10$) of such debt shall be repaid during each ten-year interval of such one-hundred-year period.

SECTION 3. In time of war or national emergency, as declared by the Congress, the application of Section 1 or

Section 2 of this article, or both such sections, may be suspended by a concurrent resolution which has passed the Senate and the House of Representatives by an affirmative vote of three-fourths (3/4) of the authorized membership of each such house. Such suspension shall not be effective past the two-year term of the Congress which passes such resolution, and if war or an emergency continues to exist such suspension must be reenacted in the same manner as provided herein.

SECTION 4. This article shall apply only with respect to fiscal years which begin more than six (6) months after the date on which this article is ratified."

BE IT FURTHER RESOLVED, That this application by the Legislature of the State of Mississippi constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds (2/3) of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical with that contained in this resolution before January 1, 1976, this application for a convention of the several states shall no longer be of any force or effect.

BE IT FURTHER RESOLVED, That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States; the Clerk of the House of Representatives of the United States; to each member of the Congress from this state; and to each house of each state legislature in the United States.

MISSOURI S.C.R. 3 (1983):

For the purpose of requesting appropriate action by the Congress, either acting by consent of two-thirds of both houses, or upon the application of the legislatures of two-thirds of the several states, to propose an amendment to the federal Constitution to require, with certain exceptions, that the federal budget be balanced.

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and re-

peatedly exceed available revenues, so that the public debt now exceeds one trillion dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to limit the growth of federal spending and taxes and balance the budget; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget; and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance on a regular basis; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, the federal deficit in Fiscal Year 1982 was \$110.7 billion, nearly double the deficit in Fiscal Year 1981; and

WHEREAS, the Congressional Budget Office projects a deficit for Fiscal Years 1983 and 1984 of \$155 billion and \$200 billion, respectively; and

WHEREAS, the United States Senate approved a proposed balance budget amendment in response to the efforts of the thirty-one state legislatures which have requested a limited convention on this subject, and its conviction about the need for a constitutional restraint upon Congress' fiscal authority; and

WHEREAS, the Reagan Administration has indicated that the budget will not be balanced by 1984; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states, the

Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid for all intents and purposes when ratified by three-fourths of the several states, and whereas, believing such action be vital;

NOW, THEREFORE, BE IT RESOLVED by the Senate of the Eighty-second General Assembly of the State of Missouri, the House of Representatives concurring therein, that the Missouri General Assembly proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the Missouri General Assembly requests the Congress to prepare and submit to the several states before January 1, 1984, an amendment to the Constitution of the United States, requiring a balanced federal budget and to make certain exceptions with respect thereto; and

BE IT FURTHER RESOLVED that if, by January 1, 1984, the Congress has not proposed and submitted to the several states such an amendment, this body respectfully makes application to the Congress of the United States for a convention to be called under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto; and

BE IT FURTHER RESOLVED that effective January 1, 1984, this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made similar applications pursuant to Article V, but if the Congress proposes an amendment to the Constitution identical in subject matter to that contained in this resolution, then this application and petition for a constitutional convention shall no longer be of any force or effect; and

BE IT FURTHER RESOLVED that this application shall be deemed null and void, rescinded and of no effect

in the event that such convention not be limited to such specific and exclusive purpose; and

BE IT FURTHER RESOLVED that this body also proposes that the legislatures of each of the several states comprising the United States which have not yet made similar applications apply to the Congress requesting the enactment of an appropriate amendment to the federal Constitution, and making application to the Congress to call a constitutional convention for the purpose of proposing such an amendment to the federal Constitution; and

BE IT FURTHER RESOLVED that copies of this resolution be sent by the Secretary of the Senate and the Chief Clerk of the House of Representatives to each member of Congress representing Missouri; and

BE IT FURTHER RESOLVED that the Secretary of the Senate and the Chief Clerk of the House of Representatives of this state be directed to send copies of this resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D.C. and the Secretary of the United States Senate, Washington, D.C.

NEBRASKA L.R. 106 (1976):

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenue, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenue; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence,

and plain good sense require that the budget reflect all federal spending be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the Legislatures of two-thirds of the several states, the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action is vital.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FOURTH LEGISLATURE OF NEBRASKA, SECOND SESSION;

1. That this body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the State of Nebraska requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenue for that fiscal year.

2. That, alternatively, this Legislature makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenue for that fiscal year.

3. That this Legislature also proposes that the Legislature of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal Constitution.

4. That the Clerk of the Legislature transmit a copy of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Nebraska Congressional delegation, the Secretaries of State and the Legislatures of each of the several states, and the Secretary of State for the State of Nebraska.

NEVADA S.J.R. 8 (1980):

SENATE JOINT RESOLUTION — Requesting the Congress of the United States to call a convention limited to proposing an amendment to the Constitution of the United States which would require a balanced budget in the absence of a national emergency.

WHEREAS, Proper economic planning, fiscal prudence and common sense require that the federal budget include all federal spending and be in balance; and

WHEREAS, The annual federal budgets continually reflect the unwillingness or inability of the legislative and executive branches of the Federal Government to balance the budget; and

WHEREAS, The national debt now amounts to hundreds of billions of dollars and is increasing enormously each year as federal expenditures exceed federal revenues; and

WHEREAS, The inflation and other results of the fiscal irresponsibility of the Federal Government demonstrate the need for a constitutional restraint upon excessive spending; and

WHEREAS, Article V of the Constitution of the United States provides that on the application of the legislatures

of two-thirds of the states, Congress shall call a convention for proposing amendments to the Constitution; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That this legislature requests the Congress of the United States to call a convention limited to proposing an amendment to the Constitution of the United States which would provide that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year must not exceed the total of the estimated federal revenue for that year; and be it further

Resolved, That this legislature conditions this request upon the Congress of the United States' establishing appropriate restrictions limiting the subject matter of a convention called pursuant to this resolution to the subject matter of this resolution, and if the Congress fails to establish such restrictions, this resolution has no effect and must be considered a nullity; and be it further

Resolved, That a copy of this resolution be immediately transmitted by the legislative counsel to the Vice President of the United States as President of the Senate and the Speaker of the House of Representatives of the United States, to each member of the Nevada congressional delegation and to the presiding officer of each house of the legislatures of the several states; and be it further

Resolved, That this resolution shall become effective upon passage and approval.

NEW HAMPSHIRE H.C.R. 8 (1979):

A RESOLUTION

concerning the budget of the United States.

Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

Whereas, the annual Federal budget continually demonstrates an unwillingness or inability of both the legisla-

tive and executive branches of the Federal government to curtail spending to conform to available revenues; and

Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

Whereas, the State of New Hampshire has long been known for its sensible, prudent approach to governmental spending; and

Whereas, the New Hampshire example of fiscal responsibility is a model for all to follow; and

Whereas, we believe that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all intents and purposes when ratified by three-fourths of the several states. We believe such action vital; now, therefore, be it

Resolved by the legislature of the state of New Hampshire, that this body proposes to the Congress of the United States that procedures be instituted in the Congress to propose and submit to the several states an amendment to the Constitution of the United States requiring that the federal budget be balanced in the absence of a national emergency; and be it further

Resolved, that, alternatively, this body respectfully peti-

tions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto; and be it further

Resolved, that this application by this body constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar application pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this House Concurrent, then this petition for a Constitutional Convention shall no longer be of any force or effect; and be it further

Resolved, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and be it further

Resolved, that this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; and be it further

Resolved, that copies of this resolution be sent to the Secretary of State and presiding officers of both houses of the legislatures of each of the several states in the Union, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the New Hampshire named Congressional delegation.

NEW MEXICO S.J.R. 1 (1976):

A JOINT RESOLUTION
FOR THE PURPOSE OF REQUESTING APPROPRIATE ACTION BY THE CONGRESS. EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES, OR UPON THE APPLICATION OF THE LEGISLATURES OF TWO-THIRDS OF THE SEVERAL STATES,

CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars, and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit, and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under article 5 of the constitution of the United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states, the congress shall call a constitutional convention for the purpose of proposing amendments, we believe such action vital;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that this body proposes to the congress of the United States that procedures be instituted in the congress to add a new article to the constitution of the United States, and that the legislature of the state of New Mexico requests the congress to prepare and submit to the several states an amendment to the constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED that, alternatively, this body makes application and requests that the congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the federal constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED that this body also proposes that the legislatures of each of the several states comprising the United States apply to the congress requesting the enactment of an appropriate amendment to the federal constitution; requiring the congress to call a constitutional convention for proposing such an amendment to the federal constitution; and

BE IT FURTHER RESOLVED that copies of this resolution be sent by the secretary of state to the members of New Mexico's delegation to the congress of the United States; and

BE IT FURTHER RESOLVED that the secretary of state of this state is directed to send copies of this joint resolution to the secretary of state and presiding officers of both houses of the legislature of each of the other states in the union, the clerk of the United States house of

representatives, Washington, D.C. and the secretary of the United States Senate, Washington, D.C.

NORTH CAROLINA S.J.R. 1 (1979):

A JOINT RESOLUTION APPLYING TO THE CONGRESS OF THE UNITED STATES TO CALL A CONVENTION TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO REQUIRE A BALANCED FEDERAL BUDGET.

Whereas, believing that inflation is the most serious problem facing the people of the United States, and the primary cause of inflation is unchecked federal spending; and

Whereas, the State of North Carolina is required by its Constitution to have a balanced budget, and has long operated on a sound fiscal basis which the federal government would be well-deserved to emulate; and

Whereas, under Article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states, the Congress shall call a Constitutional Convention for the purpose of proposing amendments which shall be valid when ratified by the legislatures of three-fourths of the several states or by conventions in three-fourths thereof;

Whereas, by Resolution 97 of the General Assembly, ratified July 1, 1977, the Congress was requested to submit an amendment to the states to require a balanced federal budget, but the Congress has failed to act; Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Congress of the United States is requested to propose and submit to the states an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the federal budget be balanced each fiscal year

within four years after the amendment is ratified by the various states.

Section 2. That, alternatively, this body respectfully petitions the Congress of the United States to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget in the absence of a national emergency.

Sec. 3. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, or until this application is rescinded by the General Assembly of North Carolina; but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this joint resolution before January 1, 1980, this petition for a Constitutional Convention shall no longer be of any effect.

Sec. 4. That this application and request be deemed rescinded in the event that the convention is not limited to the subject matter of this application.

Sec. 5. That since this application under Article V of the Constitution of the United States is the exercise of a fundamental power of the sovereign states under the Constitution of the United States, it is requested that receipt of this application by the Senate and the House of Representatives of the United States Congress be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress.

Sec. 6. That copies of this resolution be sent to the Secretaries of State, presiding officers of all state legislatures in the Union, the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and each member of the North Carolina Congressional delegation.

Sec. 7. This resolution is effective upon ratification.

NORTH DAKOTA S.C.R. 4018 (1979):

A concurrent resolution of the North Dakota Legislature calling for an amendment to the U.S. Constitution proposing to the several states the requirement of a balanced U.S. cash budget for each session of Congress except in time of war or national emergency.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN;

That we respectfully propose an amendment to the Constitution of the United States and call upon the people of the several states for a convention for such purpose as provided by Article V of the Constitution, the proposed Article providing as follows:

ARTICLE —

SECTION 1. The president shall submit, at the beginning of each new Congress, an annual budget for the ensuing fiscal year setting forth in detail the total proposed expenditures and the total estimated revenue of the Federal Government from sources other than borrowing. The president may set new revenue estimates from time to time. Expenditures for each two-year period shall not exceed the estimated revenue except in time of war or a national emergency declared by the Congress. The provisions of this Article shall not apply to the refinancing of the national debt; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the legislatures of the several states.

OKLAHOMA H.J.R. 1049 (1978):

A JOINT RESOLUTION CONCERNING THE BUDGET OF THE UNITED STATES; THE PURPOSE OF REQUESTING APPROPRIATE ACTION BY THE CONGRESS, EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES OR, UPON THE APPLICATION OF THE LEGISLATURES OF TWO-THIRDS OF THE SEVERAL STATES, CALLING A CONSTITU-

TIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars.

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues.

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit.

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance.

WHEREAS, believing that fiscal irresponsibility at the federal level with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility.

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states that the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE

OF THE 2ND SESSION OF THE 35TH OKLAHOMA LEGISLATURE;

SECTION 1. That this body proposes to the Congress to add a new Article to the Constitution of the United States, and that the Legislature of the State of Oklahoma makes application and requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

SECTION 2. That alternatively, this Body requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

SECTION 3. That this body also proposes that the legislatures of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution.

SECTION 4. That copies of this Resolution shall be sent by the Secretary of State to our members of Congress.

SECTION 5. That the Secretary of State of this state is directed to send copies of this Joint Resolution to the Secretary of State and presiding officers of both Houses of the Legislature, the Congress and each of the other States in the Union.

OREGON S.J.M. 2 (1977):

To the Honorable Members of the Senate and House of

Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Fifty-ninth Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

Whereas the level of federal expenditures demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

Whereas inflation is being fought almost exclusively by monetary policy while fiscal policy could and should be employed; and

Whereas the State of Oregon by its Constitution and its laws in adopting a budget must show a balanced relation between the total proposed spending and the total anticipated revenues or provide for paying the deficiency; and

Whereas it is just and proper that the United States of America in its obligation to provide leadership for all of the states of the union should pursue the same policy; and

Whereas a balanced budget would lessen the economic burdens on its citizens; and

Whereas a balanced budget would lessen the need for increased state and local taxes; now, therefore, Be It Resolved by the Legislative Assembly of the State of Oregon:

(1), That this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

(2) That this application by this body constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Joint Memorial before

January 1, 1979, this petition for a constitutional convention shall no longer be of any force or effect.

(3) That this body propose that the legislative body of each of the several states comprising the United States apply to the Congress of the United States requiring the Congress to call a constitutional convention for proposing an appropriate amendment to the Federal Constitution or requesting the enactment of such an amendment to be submitted to the states for ratification.

(4) That a copy of this memorial shall be transmitted to the President of the United States; to each member of the Oregon Congressional Delegation; to the presiding officers of the Senate and House of Representatives of the United States of America; to each Governor of each state in the United States of America; and to the presiding officer of each legislative body in the United States of America.

PENNSYLVANIA H.R. 236 (1976):

RESOLUTION

URGING THE CONGRESS OF THE UNITED STATES TO CALL A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE CONSTITUTION TO BALANCE THE PUBLIC DEBT

WHEREAS, Requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the Legislatures of two-thirds of the several states, calling a Constitutional Convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year.

WHEREAS, With each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, The annual Federal budget continually demonstrates an unwillingness or inability of both the leg-

islative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

WHEREAS, Unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, Knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

WHEREAS, Believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, Under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deems it necessary, or on the application of the Legislatures of two-thirds of the several states the Congress shall call a Constitutional Convention for the purpose of proposing amendments. We believe some such action vital; therefore be it

RESOLVED, (The Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the General Assembly of the Commonwealth of Pennsylvania requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and be it further

RESOLVED, That, alternatively the General Assembly

of the Commonwealth of Pennsylvania makes application and requests that the Congress of the United States call a Constitutional Convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and be it further

RESOLVED, That the General Assembly of the Commonwealth of Pennsylvania also proposes that the Legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a Constitutional Convention for proposing such an amendment to the Federal Constitution; and be it further

RESOLVED, That copies of this resolution be sent to the members of the Congress from Pennsylvania; and be it further

RESOLVED, That the Chief Clerk of the House of Representatives send copies of this joint resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D.C. and the Secretary of the United States Senate, Washington, D.C.

SOUTH CAROLINA S. 1024 (1978):

A CONCURRENT RESOLUTION

Memorializing Congress to Call a Constitutional Convention for the Purpose of Amending the Federal Constitution to Limit Annual Federal Appropriations to Annual Revenues, with Certain Exceptions.

Whereas, with each passing year this Nation becomes more deeply in debt as congressional expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds a half-trillion dollars; and

Whereas, attempts to limit spending by means of the new congressional budget committee procedures have proved fruitless; and

Whereas, the annual Federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

Whereas, the proposed budget of five hundred billion dollars for fiscal year 1978-1979 does not reflect total spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, believing that fiscal irresponsibility at the Federal level, with the resulting inflation and decline in the Nation's trading position is a growing and corrosive threat to our economy, to the well-being of our people, and to our representative democracy, that constitutional restraint is necessary to bring the fiscal discipline needed to reverse this trend. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That Congress is requested, pursuant to Article V of the United States Constitution, to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution.

Be it further resolved that the proposed new amendment read substantially as follows:

"Proposed Article XXVII

The total of all federal appropriations made by the Congress for any fiscal year shall not exceed the total of the estimated federal revenues for that fiscal year, excluding any revenues derived from borrowing, and this prohibition extends to all federal appropriations and all estimated federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this article.

The provisions of this article shall be suspended for one

year upon the proclamation by the President of an unlimited national emergency. The suspension may be extended, but not for more than one year at any one time, if two-thirds of the membership of both Houses of Congress so determine by Joint Resolution.”

Be it further resolved that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Congress from South Carolina.

SOUTH DAKOTA S.J.R. 1 (1979):

A JOINT RESOLUTION, Requesting appropriate action by the Congress, either acting by consent of two-thirds of both houses thereof or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention therefore to propose an amendment to the Constitution of the United States to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

WHEREAS, with each passing year this nation becomes more deeply in debt as its annual expenditures frequently exceed annual available revenues, so that the public debt also steadily increases to a size of inordinate proportions; and

WHEREAS, unified budgets do not necessarily reflect actual spending because of the exclusion of special spending outlays which are not included in the budget nor are subject to the statutory legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, we believe that fiscal irresponsibility at the federal level, with the inflation which results primarily from this policy, is the greatest threat which faces our nation, and that constitutional restraint is necessary to bring

the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing such amendments:

BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislature does hereby make application to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the Legislature of the state of South Dakota hereby requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency, as defined by law, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED, that alternatively, this Legislature hereby makes application under said Article V of the Constitution of the United States and with the same force and effect as if this Resolution consisted of this portion alone and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring in the absence of a national emergency, as defined by law, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

BE IT FURTHER RESOLVED, that this application and request be deemed null and void, rescinded, and of

no effect in the event that such convention not be limited to such specific and exclusive purpose; and

BE IT FURTHER RESOLVED, that this application by this Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made applications for similar relief pursuant to Article V, but, if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Joint Resolution then this petition for a Constitutional Convention shall no longer be of any force or effect; and

BE IT FURTHER RESOLVED, that this Legislature also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution, or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and

BE IT FURTHER RESOLVED, that copies of this Joint Resolution be sent by the Secretary of State to each member of the South Dakota Congressional Delegation; and

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this Joint Resolution to the presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D.C. and the Secretary of the United States Senate, Washington, D.C.

TENNESSEE H.J.R. 22 (1978):

A RESOLUTION to make application to the United States Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States to require that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year, with a certain exception.

WHEREAS, each year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the legal public debt limit has exceeded 437 billion dollars; and

WHEREAS, attempts to limit spending, including impoundment of funds by the President of the United States, having resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress; and

WHEREAS, nonetheless, the annual budget repeatedly demonstrates an unwillingness or inability to curtail spending to conform to available revenues; and

WHEREAS, the federal budget never reflects actual spending because of the exclusion of special outlays which are neither included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning requires that the budget reflect all federal spending and that the budget be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that a constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, That pursuant to Article V of the Constitution of the United States, application is hereby made to the United States Congress to call a convention for the purpose of considering and proposing an amendment to the Constitution of the United States to require that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated federal revenues for that fiscal year, such amendment to read substantially as follows:

The total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated federal revenues for that fiscal year; and this prohibition extends to all federal appropriations and all estimated federal revenues without exception. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this article. If the President proclaims a national emergency, suspending the requirement that the total of all federal appropriations not exceed the total estimated federal revenues for a fiscal year, and two-thirds (2/3) of all members elected to each house of the Congress so determine by joint resolution, the total of all federal appropriations may exceed the total estimated federal revenue for that fiscal year.

BE IT FURTHER RESOLVED, That this application shall constitute a continuing application for such convention under Article V of the Constitution of the United States until the legislatures of two-thirds (2/3) of the several states shall have made like applications and such convention shall have been called and held in conformity therewith, unless the Congress itself proposes such amendment within the time and the manner herein provided.

BE IT FURTHER RESOLVED, That proposal of such amendment by the Congress and its submission for ratification to the legislatures of the several states substantially in the form of the article hereinabove specifically set forth, and any time prior to sixty (60) days after the legislatures of two-thirds (2/3) of the several states shall have made application for such convention, shall render such convention unnecessary and the same shall not be held. Otherwise, such convention shall be called and held in conformity with such applications.

BE IT FURTHER RESOLVED, That as this application under Article V of the Constitution of the United States is the exercise of a fundamental power of the sovereign states under the Constitution of the United States, it is requested that receipt of this application by the Senate

and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress.

BE IT FURTHER RESOLVED, That certified copies of this Resolution be transmitted forthwith to the Senate and the House of Representatives of the Congress of the United States, to each Senator and Representative in Congress from this state, and to each house of the legislature and to the Secretary of State of each of the several states.

TEXAS H.C.R. 31 (1977):³⁰

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the

³⁰ A subsequent application reaffirming H.C.R. 31 is omitted.

United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the congress shall call a Constitutional convention for the sole purpose of proposing amendments. We believe such action vital; now, therefore, be it

RESOLVED by the House of Representatives of the State of Texas, the Senate concurring, that the 65th Legislature propose to the congress of the United States that procedures be instituted in the congress to add a new article to the Constitution of the United States, and that the State of Texas request the Congress to prepare and submit to the several states an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and, be it further

RESOLVED, that, alternatively, this body request that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and, be it further

RESOLVED, that this body also propose that the legislatures of each of the several states comprising the United States apply to the congress requesting the enactment of an appropriate amendment to the federal constitution; or requiring the congress to call a constitutional convention for proposing such an amendment to the federal constitution; and, be it further

RESOLVED, that official copies of this resolution be prepared and forwarded to the President of the Senate and the Speaker of the House of Representatives of the

United States Congress and to all members of the Texas delegation to congress; and, be it further

RESOLVED, that official copies of this resolution also be prepared and forwarded to the secretaries of state and to the presiding officers of the legislatures of the other states with the request that they join this state in making application to the United States Congress to call a convention for proposing the aforementioned amendment to the United States Constitution.

UTAH H.J.R. 12 (1979):

A JOINT RESOLUTION OF THE GENERAL SESSION OF THE 43RD LEGISLATURE OF THE STATE OF UTAH, CALLING UPON CONGRESS TO PASS A CONSTITUTIONAL AMENDMENT TO REQUIRE, IN THE ABSENCE OF A NATIONAL EMERGENCY, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS BY CONGRESS FOR ANY FISCAL YEAR MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES FOR THAT FISCAL YEAR; APPLYING TO CONGRESS TO INITIATE PROCEEDINGS TO THAT END, OR, IN THE ALTERNATIVE, TO CALL A CONSTITUTIONAL CONVENTION FOR THE SOLE PURPOSE OF PROPOSING SUCH AN AMENDMENT; AND CALLING UPON THE LEGISLATURES OF THE SEVERAL STATES LIKEWISE TO APPLY TO CONGRESS TO TAKE SUCH ACTION.

Be it resolved by the Legislature of the State of Utah:

WHEREAS, with each passing year, this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billion of dollars;

WHEREAS, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues;

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which

are not included in the budget nor subject to the legal public debt limit;

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance;

WHEREAS, numerous states have constitutional requirements that appropriations not exceed anticipated revenues for the forthcoming year;

WHEREAS, believing that fiscal irresponsibility at the federal level, and the inflation which results therefrom, constitutes the greatest threat now facing our nation, this Legislature is of the firm conviction that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the federal constitution may be proposed by the Congress, whenever two-thirds of both houses deem it necessary and, on the application of the legislatures of two-thirds of the several states, the Congress shall call a constitutional convention for the sole purpose of proposing amendments, which action this Legislature deems vital.

NOW, THEREFORE, BE IT RESOLVED by the 43rd Legislature of the State of Utah, that the Congress of the United States is requested to institute procedures to add a new article to the Constitution of the United States and to prepare and submit to the several states an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

BE IT FURTHER RESOLVED that, alternatively, this Legislature applies to the Congress of the United States to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the federal constitution which would require, in the absence of a national emergency, that the total of all federal appropria-

tions made by the Congress for any fiscal year may not exceed that total of all estimated federal revenues for that fiscal year.

BE IT FURTHER RESOLVED, that this Legislature calls upon the legislatures of each of the several states to request Congress to enact an appropriate amendment to the federal constitution or, in the alternative, to apply to the Congress to call a constitutional convention for the sole purpose of proposing such an amendment to the federal constitution.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to the President of the Senate and the Speaker of the House of Representatives of the United States and to all members of the Utah delegation in Congress.

BE IT FURTHER RESOLVED, that copies of this Resolution also be prepared and forwarded to the secretaries of state and to the presiding officers of the legislatures of the several states with the request that they join this State in making application to the Congress of the United States to pass such an amendment or, in the alternative, to call a convention for the sole purpose of proposing such an amendment.

BE IT FURTHER RESOLVED, that this application for a Convention Call for proposing amendments be limited to the subject matter of this Resolution and that the State of Utah be counted as part of the necessary two-thirds states for such a call only if the convention is limited to the subject matter of this Resolution.

VIRGINIA S.J.R. 36 (1976):³¹

Applying to Congress to initiate proceedings for the purpose of amending the Constitution of the United States to provide restrictions on Congressional appropriations.

WHEREAS, with each passing year this Nation becomes

³¹ Earlier applications regarding balanced budgets have been omitted, as has a subsequent application regarding a presidential line-item veto.

more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments; and

WHEREAS, we believe such action vital; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, that the General Assembly of Virginia proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States and that this Body hereby requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations

made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and, be it

RESOLVED FURTHER, that, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year, and, be it

RESOLVED FURTHER, that this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and, be it

FINALLY RESOLVED, that copies of this resolution be presented forthwith to the President of the Senate and the Speaker of the House of Representatives of the United States, to each of the Senators and Representatives from Virginia and to the legislatures of each of the several states, attesting the adoption of this resolution.

WYOMING H.J.R. 1 (1977):

A JOINT RESOLUTION requesting appropriate action by the Congress, on its own consent of two-thirds of both Houses or on the application of the legislatures of two-thirds of the several states, to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions.

WHEREAS, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and re-

peatedly exceed available revenues so that the public debt now amounts to hundreds of billions of dollars; and

WHEREAS, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous assertions that the responsibility for appropriations is the constitutional duty of the Congress; and

WHEREAS, the annual Federal budget repeatedly demonstrates the unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

WHEREAS, the unified budget does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

WHEREAS, the US News and World Report reported on February 15, 1974, that of these nonbudgetary outlays in the amount of \$15,600,000,000.00, the sum of \$12,900,000,000.00 represents funding of essentially private agencies which provide special services to the Federal government; and

WHEREAS, knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance; and

WHEREAS, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deems it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments;

NOW, THEREFORE BE IT RESOLVED BY THE LEG-

ISLATURE OF THE STATE OF WYOMING, a majority of all members of the two houses, voting separately, concurring herein:

Section 1. That procedures be instituted in the Congress to add a new Article XXVII to the Constitution of the United States, and that Congress prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year; or

Section 2. That the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing such an amendment to the Federal Constitution, to be a new Article XXVII.

Section 3. That the legislatures of each of the several states comprising the United States apply to the Congress requiring it to call a constitutional convention for proposing such an amendment to the Federal Constitution, to be a new Article XXVII.

Section 4. That the proposed new Article XXVII (or whatever numeral may then be appropriate) read substantially as follows:

PROPOSED ARTICLE XXVII

"The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing; and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds

of all members elected to each House of the Congress concur by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year.”

Section 5. That copies of this Resolution be transmitted to the President of the United States, the chairmen of the Judiciary Committees of both the Senate and House of Representatives, the chairman of the Joint Committee on Budget Control of the Congress and to each member of the Wyoming Congressional delegation.

Section 6. That copies of this Joint Resolution be transmitted to the Secretary of State and to the presiding officers of both Houses of the Legislature of each of the other States in the Union, with the request that it be circulated among leaders in the Executive and Legislative branches of the several state governments; and with the further request that each of the other States in the Union join in requiring the Congress of the United States to call a constitutional convention for the purpose of initiating a proposal to amend the Constitution of the United States in substantially the form proposed in this Joint Resolution.

