YAB56N-1

By Senator Carnley

RFD: RULES

First Read: 02-May-23

2023 Regular Session
SJR___ RESCINDING ALL PREVIOUS RESOLUTIONS OF THE ALABAMA LEGISLATURE WHICH REQUEST CONGRESS TO CALL A CONVENTION PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION.

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

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

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

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

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

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

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

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

WHEREAS, if delegates to a convention called by Congress pursuant to Article V decide to discard our Constitution of 1787 and create a new constitution with a new system of government, the new constitution will have its own new mode of ratification; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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