

HOUSE JOINT RESOLUTION NO. HJ0005

Rescission of federal constitutional resolutions.

Sponsored by: Representative(s) Edwards, Jennings, Styvar,
Tass, Wilson and Winter and Senator(s)
Hutchings

A JOINT RESOLUTION

for

1 A JOINT RESOLUTION rescinding a previous resolution adopted
2 by the Wyoming Legislature that requested the Congress of the
3 United States to convene a constitutional convention under
4 Article V of the Constitution of the United States.

5

6 WHEREAS, Article V of the Constitution of the United States,
7 after the application of two-thirds (2/3) of state
8 legislatures, reserves to Congress the exclusive authority to
9 call a convention for proposing constitutional amendments;
10 and

11

12 WHEREAS, the Supreme Court of the United States ruled in
13 *Dillon v. Gloss*, 256 U.S. 368, that Congress alone reserves
14 the power to "deal with subsidiary matters of detail" under

1 the Constitution of the United States, which likely includes
2 the manner of convening a constitutional convention under
3 Article V; and

4

5 WHEREAS, Article V also likely requires the "mode of
6 ratification" of amendments arising from a constitutional
7 convention to be determined not by state legislatures or by
8 delegates but by Congress; and

9

10 WHEREAS, the authority of state legislatures to impose any
11 penalty, sanction or limitation on constitutional convention
12 delegates is uncertain, since such delegates represent the
13 people and because, as averred in the Declaration of
14 Independence, it is the "Right of the People to alter or to
15 abolish [their Government], and to institute new Government;"
16 and

17

18 WHEREAS, states likely have no constitutional authority to
19 establish or predetermine the rules of order or operational
20 aspects of a constitutional convention; and

21

22 WHEREAS, James Madison wrote in the *Federalist Papers* Number.

23 43 that Article V should only be utilized to repair

1 "discovered faults" of the Constitution of the United States
2 or for the "amendment of errors;" and

3

4 WHEREAS, nothing in Article V limits a constitutional
5 convention to the consideration of amendments relating to any
6 specific topic or list of topics; and

7

8 WHEREAS, nothing in Article V provides for, nor can any state
9 application under Article V guarantee, equal suffrage or
10 equal franchise to each state at a constitutional convention;
11 and

12

13 WHEREAS, the Wyoming Legislature adopted House Joint
14 Resolution 7 in 2009, specifically rescinding past
15 resolutions requesting Congress to convene an Article V
16 constitution convention; and

17

18 WHEREAS, the Wyoming Legislature desires to reaffirm its
19 commitment to the U.S. Constitution by rescinding a
20 resolution adopted in 2017 that requested Congress to convene
21 an Article V constitutional convention.

22

1 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
2 LEGISLATURE OF THE STATE OF WYOMING:

3

4 **Section 1.** That the Wyoming Legislature, by this
5 resolution, hereby rescinds, nullifies and supersedes House
6 Joint Resolution 2, adopted in 2017, regarding a balanced
7 budget amendment to the U.S. Constitution.

8

9 **Section 2.** That the Secretary of State of Wyoming
10 transmit copies of this resolution to the President of the
11 United States, to the President of the Senate and the Speaker
12 of the House of Representatives of the United States Congress
13 and to the Wyoming Congressional Delegation.

14

(END)