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SENATE JOINT RESOLUTION NO. 252
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Rules
 on January 27, 2015)

(Patron Prior to Substitute—Senator Hanger)

Making application to the Congress of the United States to call a convention pursuant to Article V of the United States Constitution for the sole and exclusive purpose of proposing to the several states a constitutional amendment to add an article to provide for a balanced budget requirement.

WHEREAS, this nation has become deeply in debt as its expenditures have exceeded available revenues so that the total federal public debt now exceeds \$17 trillion and continues to increase; and

WHEREAS, the federal budget fails to reflect actual spending because of the exclusion of special outlays that 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, attempts to curtail federal spending, confine expenditures to available revenues, and reduce the annual deficit have met with only limited success; and

WHEREAS, the requirement to balance the budget will promote responsibility at the federal level, provide checks against unnecessary and costly appropriations, and reinforce efforts to bring about fiscal integrity; and

WHEREAS, the Constitution of Virginia provides for a balanced budget, and this provision has reinforced the inherent fiscal common sense of spending only funds available and has contributed to the Commonwealth's outstanding reputation for sound fiscal management and policy; and

WHEREAS, there has not been, nor does it appear that there will be, an initiative on the part of the Congress to amend the United States Constitution so as to add a balanced budget requirement; and

WHEREAS, in the event of congressional inaction, Article V of the United States Constitution grants to the states the right to initiate constitutional change through application by the legislatures of two-thirds of the several states to the Congress, calling for a constitutional convention; and

WHEREAS, the Congress is required by Article V to call such a convention upon receipt of such applications; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly of Virginia does hereby make application to the Congress of the United States to call a convention pursuant to Article V of the United States Constitution for the sole and exclusive purpose of proposing to the several states a constitutional amendment to add an article to provide for a balanced budget requirement. The proposed article should contain substantially the following provisions:

"Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a roll call vote.

Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a roll call vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a roll call vote.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict that causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Section 8. This article shall take effect beginning with the later of the second fiscal year beginning after its ratification or the first fiscal year beginning after December 31, 2012"; and, be it

RESOLVED FURTHER, That unless rescinded by the General Assembly of Virginia, this application shall constitute a continuing application for such convention pursuant to Article V of the United States Constitution until the legislatures of two-thirds of the states shall have made like applications and such

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60 convention shall have been called by the Congress of the United States; and, be it

61 RESOLVED FURTHER, That since this method of proposing an amendment has never been
62 completed to the point of calling a convention, and since the exercise of the power is a matter of basic
63 sovereign rights and the interpretation thereof is primarily in the sovereign government making such
64 exercise, and since the power to use such right in full also carries the power to use such right in part,
65 the General Assembly interprets Article V to mean that if two-thirds of the states make application for a
66 convention to propose a substantially similar amendment to the Constitution for ratification with a
67 limitation that such amendment be the only matter before it, that such convention would have power to
68 propose only the specified amendment and would be limited to such proposal and would not have power
69 to propose other amendments on different propositions; and, be it

70 RESOLVED FURTHER, That the General Assembly of Virginia adopt this application with the
71 following understandings (as the term "understandings" is used within the context of "reservations,
72 understandings, and declarations"):

73 1. An application to Congress for an Article V convention confers no power on Congress other than
74 to perform a ministerial function to "call" a convention;

75 2. This ministerial duty shall be performed by Congress only when Article V applications for
76 substantially the same purpose are received from two-thirds of the legislatures of the several states;

77 3. The power of Congress to "call" a convention solely consists of the authority to name a reasonable
78 time and place for the initial meeting of the convention;

79 4. Congress possesses no power whatsoever to name delegates to said convention, as this power
80 remains exclusively within the authority of the legislatures of the several states;

81 5. Congress possesses no power to set the number of delegates to be sent by any state;

82 6. Congress possesses no power whatsoever to determine any rules for said convention;

83 7. By definition, a convention of states means that states vote on the basis of one state, one vote;

84 8. A convention of states convened pursuant to this application is limited to consideration of topics
85 specified herein and no other;

86 9. The General Assembly of Virginia may provide instructions to its delegates (commissioners);

87 10. The General Assembly of Virginia may recall its delegates at any time for breach of their duties
88 or violation of their instructions;

89 11. Pursuant to the text of Article V, Congress may determine whether proposed amendments shall
90 be ratified by the legislatures of the several states or by special state ratification conventions; the
91 General Assembly of Virginia recommends that Congress specify its choice of ratification methodology
92 contemporaneously with the call for the convention;

93 12. Congress possesses no power whatsoever with regard to the Article V convention beyond the two
94 powers acknowledged herein; and

95 13. The General Assembly of Virginia places express reliance on prior legal and judicial
96 determinations that Congress possesses no power under Article I of the United States Constitution
97 relative to the Article V process and that Congress must act only as expressly specified in Article V;
98 and, be it

99 RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the
100 President of the United States, the President of the United States Senate, the Speaker of the United
101 States House of Representatives, the members of the Virginia Congressional Delegation, and the
102 legislatures of each of the several states, attesting the adoption of this resolution by the General
103 Assembly of Virginia.