

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 357 Session of 2015

INTRODUCED BY COX, BARBIN, BRIGGS, BURNS, CALTAGIRONE, COHEN, P. COSTA, CUTLER, M. DALEY, DEAN, DERMODY, ELLIS, EVERETT, FRANKEL, GILLEN, GOODMAN, HANNA, HARKINS, KAMPF, KAUFER, KILLION, LEWIS, MALONEY, MULLERY, MURT, ORTITAY, D. PARKER, REGAN, SANKEY, SANTARSIERO, SAYLOR, SIMS, STURLA, TOBASH, TOOHL, VITALI, KRUEGER-BRANEKY, CONKLIN, SONNEY, DAVIS, KOTIK, MICCARELLI, PETRARCA, YOUNGBLOOD, GAINEY AND PASHINSKI, JUNE 15, 2016

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 15, 2016

A CONCURRENT RESOLUTION

1 Calling for a Free and Fair Elections Amendment to the  
 2 Constitution of the United States via a Convention of the  
 3 States, pursuant to Article V of the Constitution of the  
 4 United States, to authorize the states to apply disclosure  
 5 rules and reasonable guidelines on election campaign  
 6 contributions and expenditures.

7 WHEREAS, Our first President, George Washington, declared in  
 8 his 1796 farewell address: "The basis of our political systems  
 9 is the right of the people to make and to alter their  
 10 Constitutions of Government," and it was the clear intention of  
 11 the framers of the Constitution of the United States, as noted  
 12 by James Madison in Federalist No. 52, that the Congress of the  
 13 United States should be "dependent on the people alone"; and

14 WHEREAS, The articles of the Constitution of the United  
 15 States guarantee the right of the people to govern themselves,  
 16 the Bill of Rights contained in the first amendments to the  
 17 Constitution of the United States protect the inalienable rights

1 of the people, and the Declaration of Independence states that  
2 "to secure these rights, Governments are instituted among Men,  
3 deriving their just powers from the consent of the governed";  
4 and

5 WHEREAS, The Tenth Amendment of the Constitution of the  
6 United States provides: "The powers not delegated to the United  
7 States by the Constitution, nor prohibited by it to the States,  
8 are reserved to the States respectively, or to the people"  
9 which, until 2010, had consistently been interpreted to allow  
10 the several states to establish their own laws governing the  
11 financing of elections; and

12 WHEREAS, Prior to 2010, the Commonwealth of Pennsylvania had  
13 consistently exercised its legal authority to mitigate  
14 corrupting influences in its electoral process by establishing  
15 laws governing the financing of elections; and

16 WHEREAS, The United States Supreme Court decisions in  
17 *Citizens United v. Federal Election Commission* (2010) and  
18 *McCutcheon v. Federal Election Commission* (2014) removed  
19 restrictions on amounts of independent and aggregate political  
20 spending, effectively denying the several states the ability to  
21 establish their own laws governing the financing of elections,  
22 and the removal of those restrictions has resulted in the undue  
23 influence of powerful economic forces, which have supplanted the  
24 will of the people by undermining their ability to choose their  
25 political leadership and determine the fate of their states and  
26 the nation as a whole; and

27 WHEREAS, Elections for public office should be free of the  
28 corrupting influence of excessive spending by outside interests  
29 and fair enough that any qualified citizen is able to run for  
30 public office because free and fair elections with a level

1 playing field ensure a robust debate and a healthy marketplace  
2 of ideas in the halls of our governments, and therefore a Free  
3 and Fair Elections Amendment should be added to the Constitution  
4 of the United States to guarantee the preservation of the  
5 inalienable right to self-determination and self-governance for  
6 future generations of Americans; and

7 WHEREAS, Article V of the Constitution of the United States  
8 grants the states co-equal power to the Congress of the United  
9 States to propose Federal Constitutional amendments, and was  
10 added at the urging of our founding fathers so that the several  
11 states could protect themselves and their citizens from  
12 encroachments by the Federal government or in the event that the  
13 Federal government would someday become unresponsive to the will  
14 of the American people; and

15 WHEREAS, Some of our most respected presidents have endorsed  
16 the Convention of the States as an essential safeguard to our  
17 Constitutional Republic, including President Abraham Lincoln  
18 when he spoke of amending the Constitution of the United States,  
19 stating that "The convention mode seems preferable, in that it  
20 allows amendments to originate with the people themselves" and  
21 President Dwight Eisenhower, who stated, "Through their state  
22 legislatures and without regard to the federal government, the  
23 people can demand a convention to propose amendments that can  
24 and will reverse any trends they see as fatal to true  
25 representative government"; and

26 WHEREAS, Article V of the Constitution of the United States  
27 requires the Congress of the United States to call a convention,  
28 upon the application of two-thirds of the legislatures of the  
29 several states, for the purpose of proposing amendments to the  
30 Federal Constitution, an assurance made abundantly clear in

1 Federalist No. 85 by Alexander Hamilton, who noted: "The words  
2 of this article are peremptory. The Congress 'shall call a  
3 convention.' Nothing in this particular is left to the  
4 discretion of that body"; and

5 WHEREAS, The Commonwealth of Pennsylvania desires that the  
6 delegates to the Convention of the States be comprised equally  
7 from individuals currently elected to state and local office, or  
8 be determined by election, in each congressional district in  
9 Pennsylvania, for the purpose of serving as delegates, though  
10 all individuals elected or appointed to Federal office, now or  
11 in the past, be prohibited from serving as delegates to the  
12 convention, and intends to retain the ability to restrict or  
13 expand the authority of its delegates within the limits herein  
14 expressed; and

15 WHEREAS, The Commonwealth of Pennsylvania intends this  
16 resolution to be a continuing application considered together  
17 with applications calling for a Convention of the States passed  
18 in the 2013-2014 Vermont legislature as R454, the 98th Illinois  
19 General Assembly as Senate Joint Resolution No. 42, and as  
20 approved by the Senate of the Ninety-Eighth General Assembly of  
21 the State of Missouri in 2015 as Senate Concurrent Resolution 24  
22 and the House of Representatives of the One Hundred Sixty-Fourth  
23 General Court of the State of New Hampshire in 2015 as House  
24 Concurrent Resolution 2 and all other passed, pending and future  
25 applications, the aforementioned concerns notwithstanding until  
26 such time as two-thirds of the states have applied for a  
27 Convention of the States and the convention is convened by the  
28 Congress of the United States; therefore be it

29 RESOLVED, (the Senate concurring), That the General Assembly  
30 of the Commonwealth of Pennsylvania call for a Free and Fair

1 Elections Amendment to the Constitution of the United States via  
2 a Convention of the States, pursuant to Article V of the  
3 Constitution of the United States, to authorize the states to  
4 apply disclosure rules and reasonable guidelines on election  
5 campaign contributions and expenditures; and be it further

6       RESOLVED, That a Free and Fair Elections Amendment would  
7 allow states to place reasonable limits on campaign  
8 contributions, establish disclosure rules, provide for stricter  
9 enforcement of existing bans on coordination between candidates  
10 and super PACs and ensure that American elections are free and  
11 fair so that the will of the people is reflected in the actions  
12 of the Federal government; and be it further

13       RESOLVED, That the Secretary of State of the Commonwealth of  
14 Pennsylvania transmit duly certified copies of this resolution  
15 to the President and Vice-President of the United States, the  
16 President Pro Tempore of the United States Senate, the Majority  
17 and Minority Leaders of the United States Senate, the Secretary  
18 and Parliamentarian of the United States Senate, the Speaker of  
19 the United States House of Representatives, the Majority and  
20 Minority Leaders of the United States House of Representatives,  
21 the Clerk and Parliamentarian of the United States House of  
22 Representatives, each member of the United States Senate and  
23 United States House of Representatives from the Commonwealth of  
24 Pennsylvania, with the respectful request that the full and  
25 complete text of this resolution be printed in the Congressional  
26 Record and that this resolution be referred to whichever  
27 committees of the United States Senate and United States House  
28 of Representatives that would have proper jurisdiction over its  
29 subject matter, and the presiding officers of each legislative  
30 body of each of the several states that have not yet applied for

1 the calling of a Convention of the States, requesting the  
2 cooperation of lawmakers in those particular states in approving  
3 applications compelling the Congress of the United States to  
4 call a convention for the purpose set forth in this resolution.