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Restore West Virginia Sovereignty With Nullification Bill HB 5533

Members of the West Virginia Legislature are seeking to enact one of the strongest nullification bills in the country.

House Bill 5533 (HB 5533), titled the "West Virginia Federal Constitutional Authority Clarification Act," is sponsored by Delegate Bill Ridenour (R-Harpers Ferry) and three other delegates. It declares:

> (a) The Legislature finds that-
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> (1) The Constitutions of the United States and West Virginia are the supreme law within their respective jurisdictions;
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> (2) Judicial decisions demonstrably wrong in their interpretation of constitutional or statutory text threaten the sovereignty of the State of West Virginia and the separation of powers;
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> (3) Federal courts of limited jurisdiction are bound by the geographic and subject-matter confines of the districts and circuits established by Congress, and decisions purporting to reach beyond those confines lack legitimate force in this State; and
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> (4) West Virginia has a compelling interest to ensure that the people of this state are governed only by lawful, constitutional commands and not by ultra vires or unconstitutional judicial dictates.
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> (b) The purpose of this article is to establish clear processes within both the Executive and Legislative branches to identify, review, and, as warranted, declare specific federal judicial decisions, or aspects of specific judicial decisions, null and void in West Virginia, and to direct the

actions of state officers in response.

If enacted, HB 5533 would create formal processes for reviewing the constitutionality of lawless federal-court rulings and rejecting those found unconstitutional, expressly authorizing the Legislature to nullify unconstitutional federal laws. When examining the constitutionality of federal actions, HB 5533 requires considering "the text, original public meaning, structure, and history of the Constitution of the United States and the Constitution of West Virginia."

If a federal court ruling is found unconstitutional under HB 5533, that action would be prohibited from being enforced in West Virginia by any state or local government agency, and no funds may be used to enforce it.

Additionally, the bill would create a Joint Committee on Constitutional Review, a body of the Legislature that would examine the constitutionality of federal court decisions.

HB 5533 is firmly grounded in the text of the U.S. Constitution. In particular, Article VI states, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof … shall be the supreme Law of the Land." Additionally, the 10th Amendment makes clear that all powers not granted by the Constitution to the federal government are reserved to the states and to the people.

Accordingly, any federal action that violates or contradicts the Constitution cannot be "made in Pursuance thereof" and, thus, is not "the supreme Law of the Land." Unfortunately, in the last several decades, thousands of unconstitutional laws on the federal, state, and even local levels have been created and enforced.

HB 5533 follows and enforces both of these important constitutional provisions (Article VI and the 10th Amendment) by nullifying unconstitutional federal actions and by restoring state sovereignty. Additionally, exercising these powers is more important now than ever, considering the extent to which the federal government has overreached. If our leaders adhered consistently to the Constitution, more than 80 percent of the federal government would be declared unconstitutional.

Urge your state delegate and senator to support the West Virginia Federal Constitutional Authority Clarification Act (HB 5533) and any other attempt to properly enforce the Constitution and nullify federal overreach.