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Support West Virginia Nullification Resolution HCR 6

Members of the West Virginia Legislature are seeking to pass a resolution affirming "the sovereign right of West Virginia to nullify any dangerous and unconstitutional acts of, actions not undertaken using constitutional means, or actions taken to subvert Constitutional processes by the federal government." ***It is imperative that the Legislature enacts this resolution, along with strong, substantive legislation that nullifies unconstitutional federal actions.***

House Concurrent Resolution 6 (HCR 6) is sponsored by Delegate Bill Ridenour (R-Harpers Ferry) and co-sponsored by five other delegates. This resolution begins by expounding on a proper view of the Constitution and its limitations on government power, specifically via the horizontal (between the three branches of government) and vertical (the states vs. the federal government) separation of powers.

For example, the bill declares:

> Whereas, This principle [the vertical separation of powers] has become increasingly disregarded in recent decades, with the federal government acting as if it were supreme in all areas and unlimited in its jurisdiction; and
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> Whereas, Whether this shift was intentional or accidental, active or passive, it nevertheless finds no

> support in the Constitution of the United States of America, the laws of the United States, or the constitutions of any of the sovereign states, and is an illegal usurpation of power and the unalienable rights of the people; and
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> Whereas, Any federal action that violates either the horizontal or vertical separation of powers is void, as the Constitution of the United States is the supreme law of the land; and
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> …
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> Whereas, The Constitution of the United States binds federal lawmakers by oath to support the constitution, and when they fail to do so, the rightful remedy for states is to nullify their usurpations and to declare their acts void; and
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> …
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> Whereas, The Constitution of the United States assures the people and the states that their respective rights and powers will be respected by the federal government; and
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> Whereas, These sacred rights shall not be infringed upon by any action of the federal government purporting to wield any undue authority.

HCR 6 further declares:

> [T]he Legislature of West Virginia does hereby declare the sovereign right of West Virginia to nullify any dangerous and unconstitutional acts by the federal government, or actions not undertaken using Constitutional means or actions taken to subvert Constitutional processes by the federal government; and, be it
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> Further resolved, That the Executive Branch of the State of West Virginia is charged with identifying and taking action to resolve unconstitutional acts or actions by the federal government requiring nullification, and work with other states to prevent the federal government from enforcing unconstitutional actions.

HCR 6 is correct. Article VI of the U.S. Constitution 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." Article VI also declares that state legislators, executive officials, and judges "shall be bound by Oath or Affirmation, to support this Constitution."

Additionally, the Constitution delegates only specific, enumerated powers to the federal government. The states, by contrast, retain the vast majority of powers, something James Madison affirms in *The Federalist*, No. 45. This is further cemented by the 10th Amendment, which 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" — and state officials are duty-bound to nullify those actions.

In addition to passing HCR 6, the Legislature should enact strong legislation nullifying unconstitutional federal actions — whether congressional laws, executive orders or regulations, or federal court rulings — and refuse to implement any federal edict without any basis in the Constitution. Nonetheless, passing HCR 6 would send a powerful message in favor of enforcing the U.S. Constitution.

Urge your state delegate and senators to support HCR 6 and every other attempt to properly enforce the Constitution and nullify federal overreach.