



**Legislative Bulletin.....April 25, 2001**

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**H.J.Res. 41— Proposing an amendment to the Constitution of the United States with respect to tax limitations. (Sessions)**

**Order of Business:** This resolution will be considered under a modified closed rule, permitting a substitute amendment if offered by the Minority Leader.

**Summary:** H.J.Res. 41 would make necessary the approval of two-thirds of both Houses of Congress to pass any legislation “changing the internal revenue laws” unless the measure would increase revenue by only a “de minimis” amount or unless the measure would increase revenue by *lowering* an effective rate of any tax. In other words, tax-*cuts* would not be subject to the two-thirds requirement. The two-thirds requirement may be waived when a declaration of war is in effect or when a joint resolution stating that the U.S. is engaged in a military conflict of “imminent and serious threat to national security” becomes law. Any revenue increase enacted under a waiver of the two-thirds requirement could not be effective for more than two years. The yeas and nays for any vote for which a two-thirds majority is required would be recorded in the Journal.

**Text:**

`Article--

`SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless that bill, resolution, or other legislative measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount. For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the Members of either House shall be entered on the Journal of that House.

`SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious 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. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.'

**Additional Background:** This will be the sixth time since 1996 that Congress has considered a tax limitation amendment to the Constitution. On the five previous considerations, the respective proposals failed to receive the two-thirds majority (290 votes in the House) necessary for the passage of a constitutional amendment:

<u>Date Considered</u>	<u>Resolution</u>	<u>Roll Call</u>	<u>Yeas and Nays</u>
April 12, 2000	H.J.Res. 94	#119	234-192
April 15, 1999	H.J.Res. 37	#90	229-199
April 22, 1998	H.J.Res. 111	#102	238-186
April 15, 1997	H.J.Res. 62	#78	233-190
April 15, 1996	H.J.Res. 159	#243	243-177

If this year's tax limitation amendment does pass both Houses of Congress by the required two-thirds majority, it would then go directly to the States for ratification, per Article V of the Constitution. Three-fourths of the States would then have to approve the amendment within seven years for it to be added to the Constitution.

In the 107<sup>th</sup> Congress, House Rule XXI, clause 5(b) states that legislation containing a federal income tax rate increase needs a three-fifths majority to pass. However, because House rules can be waived or repealed by a simple majority vote, some proponents of a tax limitation amendment argue that a permanent limitation needs to be enforced by the Constitution.

**Cost to Taxpayers:** None.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** Committee Report 107-43 cites constitutional authority under Article V, which gives Congress the authority to propose constitutional amendments.

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## **H.R. 503 — The Unborn Victims of Violence (Graham)**

**Order of Business:** The bill will be considered under a modified closed rule which makes in order an amendment offered by Rep. Zoe Lofgren (D-CA).

**Summary:** Under this legislation, criminals who commit an already defined federal crime of violence against a pregnant woman can be charged with a second offense on behalf of the second victim, the unborn child. The bill only applies to crimes committed under federal or

U.S. military jurisdiction. It does not affect state laws. On September 30, 1999, this same bill passed the House by a vote of 254-172 (Roll Call #465).

Under H.R. 503, an individual who injures or kills an unborn child during the commission of certain federal crimes of violence will be guilty of a separate offense with punishment equaling the same punishment provided under Federal law had the same injury or death resulted to the pregnant woman. If the perpetrator commits the offense with the intent to kill the unborn child, the punishment for that offense is the same as the punishment provided under federal law for intentionally killing or attempting to kill a human being. In the bill, unborn child is defined as “a child in utero,” and the term “child in utero” or “child, who is in utero” means “a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

H.R. 503 does *not* apply to “conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law,” nor does it permit prosecution “of any person for any medical treatment of the pregnant woman or her unborn child,” or “of any woman with respect to her unborn child.”

The bill specifically states that the death penalty may *not* be imposed on those convicted under this new law.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 503 would not result in any significant cost to the federal government and that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant, because of the small number of cases likely to be involved. Any criminal fines generated from convictions under H.R. 503 would be deposited in the federal Crime Victims Fund.

**Constitutional Authority:** The Committee finds authority under Article I, section 8, clause 18 of the Constitution. (laws “necessary and proper” for carrying out powers given to the federal government)

**Does the Bill Create New Federal Programs or Rules:** YES, the bill creates new federal crimes for the injuring or killing of unborn children during the commission of a federal crime against his or her mother.

**Substitute “One Victim” Amendment:**

There is likely to be a substitute amendment similar to one offered in committee this year and on the floor in 1999 by Rep. Lofgren. (The Lofgren amendment failed in 1999 201-224 (Roll Call # 464)). Under the amendment, a criminal could receive a stiffer sentence for interfering with “the normal course of the pregnancy” while committing a federal crime, but only one victim would be recognized – the mother, not her child. **According to National Right to Life, a pro-life group opposed to this amendment, “any lawmaker who votes for the one-victim substitute is voting to say that when a criminal injures a pregnant woman and kills her unborn child, there really has been no loss of human life.”**

For detailed information, including stories of fetal homicide cases and question and answer fact sheets go to:

[http://www.nrlc.org/Unborn\\_Victims/index.html](http://www.nrlc.org/Unborn_Victims/index.html)

and

<http://www.house.gov/graham/News/unbornvictim.htm>

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The views expressed in Legislative Bulletin may not reflect the views of all Members of the Republican Study Committee.