HJR

20

HOUSE COMMITTEE REPORT

(11)
Date Referred: February 15, 1995 FURTHER REFERRALS:

Date of Committee Action: 2/28/95

The FINANCE Committee considered: HJR 20

HOUSE JOINT RESOLUTION NO. 20 CONFERENCE OF THE STATES

Relating to unfunded federal mandates and the Conference of the States.

recommends it be replaced with the following committee substitute CS HJR 20(STA) [✓] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [✓] fiscal note(s) LAA 2/1/95

[ ] zero fiscal note(s) _____ [✓] zero fiscal note(s) Gov 2/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
Mark C. Hanley	Hanley	X			
Jean R. Parnell	Parnell	X			
Vic Kohring	Kohring	X			
Ben Grussendorf	Grussendorf	X			
Mike Navarre	Navarre			✓	
Jay Brown	Brown			✓	
Pete Kelly	Kelly	X			
Gene Therriault	Therriault	X			
Joan Mulder	Mulder	X			
Richard Foster	Foster	X			

CHAIR'S SIGNATURE Mark C. Hanley Richard Foster

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 1
Bill Version: HJR 20
(H) Publish Date: 2/1/95

Revision Date:
Title: Relating to unfunded federal mandates and the Conference of the States.
Sponsor: Representative Barnes
Requestor: Representative Barnes

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Council and Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	11.0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	11.0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	11.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	11.0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary)

It is anticipated that 4 members of the Legislature would represent the State of Alaska at the Conference of the States.

Prepared By: Karla Schofield, Deputy Director Karla Schofield Phone: 465-3852
Division: Administrative Services Date: 11/26/95

Approved By: Pamela A. Vami, Executive Director Pamela A. Vami
Agency: Legislative Affairs Agency Date: 11/26/95

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

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FISCAL NOTE

No. 2

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: HJR 20
(H) Publish Date: 2/1/95

Revision Date:

Department Affected: Office of the Governor

Title: A Resolution "Relating to unfunded federal mandates and the Conference of the States."

BRU: Executive Operations

Component: Executive Office

Sponsor: Representatives Barnes, Grussendorf, Foster, Mulder

Requestor:

COMPONENT SERIAL NO. 0006

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN						
FUND SOURCE						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0
POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost:

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact - costs for the Governor or designee to participate in a Conference of the States will be paid by existing operating funds.

Prepared by: Michael A. Nizich, Director
Division: Division of Administrative Services
Phone: 465-3876
Date: 1/26/95

Approved by Commissioner: Jim Ayers, Chief of Staff
Agency: Office of the Governor
Date: 1/26/95

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Rev 11/93

AMENDMENT

CSHJR NO. 20(STA) BY PARNELL

Page 3, line 1 Delete "and"
Insert ","

Page 3, line 1 After "Legislatures"
Insert ", and the American Legislative Exchange Council,"

2/28/94
Attachment 1

Conference of the States

Restoring Balance in the Federal System

Can The Conference of the States Somehow Mutate into a Constitutional Convention?

The answer is no. It cannot. There is no reason to fear such a thing happening, for the following three important reasons:

1. The United States Constitution plainly states procedures for calling a Constitutional Convention and for amending the Constitution. The Founders carefully built in hurdles and safeguards to ensure that the Constitution could not be amended on impulse or caprice. The Conference of the States does not follow the necessary procedures or meet the constitutional requirements to amend the Constitution. Article V of the Constitution gives power to Congress to propose constitutional amendments "whenever two-thirds of both Houses shall deem it necessary." A second method of proposing amendments gives Congress the authority to call a convention "on the application of the legislatures of two-thirds of the several states." In either case, any amendment proposed must go back to the states for ratification by three-fourths of the legislatures. The resolutions being passed in state legislatures calling for The Conference of the States do not even come close to fulfilling those constitutional requirements. Except for some that expressly forbid the convening of a convention, the resolutions do not even mention a constitutional convention. They do not make application to Congress to convene a convention. They simply call for state leaders to come together to informally discuss issues of balance in the federal system.

2. The delegates to The Conference of the States will be the nation's 50 governors and top legislative leaders from all 50 states. These are careful, responsible, reasonable elected officials who are directly accountable to the voters. There could hardly be assembled a more responsive and responsible group of people. The vast majority of these delegates revere and respect the Constitution and the ideals of this country's Founders, and they would never do anything to damage our nation's fundamental governing document. Their whole interest is restoring a proper balance in the federal system, a balance intended and carefully outlined by the Founders.

3. Proposals made at The Conference of the States will have no binding legal or constitutional authority. They will merely be suggestions, relying entirely upon the power of persuasion, that will be taken back to state legislatures, where they will be voted on to determine the depth and breadth of support. Only if they have support of most of the state legislatures in the country will they then be taken to Congress. If any of the proposals suggest a constitutional amendment, the Congress will have to approve it by two-thirds votes, then send it back to the states for ratification by three-fourths of the legislatures. The safeguards outlined in Article V of the Constitution can in no way be circumvented or ignored.

Convenor: The Council of State Governments in conjunction with the National Conference of State Legislatures and the National Governors' Association
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MEMORANDUM February 28, 1995

SUBJECT: Conference of the States (HJR 20)

TO: Representative Barnes, Chair House Special Committee on World Trade and State/Federal Relations

FROM: Tamara Brandt Cook
Director of Legal Services

HJR 20 calls for the convening of a Conference of the States under the auspices of the Council of State Governments and for the appointment of a delegation to represent Alaska at that conference. You have provided me with a copy of an "Alert" and asked me to respond. As I understand the contents of the "Alert," it is asserted that the Conference of the States will amount to Constitutional Convention.

Under Article V of the United State Constitution, a constitutional convention is called by Congress ". . . on the application of the legislatures of two thirds of the several states. . . ." HJR 20 itself does not call for a constitutional convention. It is not even addressed to Congress. While it is possible that the question of trying to persuade state legislatures to call for a constitutional convention could be considered during the Conference of the States, the conference itself does not amount to a constitutional convention because it was not called by Congress and the required number of states have not applied to Congress for a convention.

TBC:klb
95-105.klb

Unfunded Mandates

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. -- The 10th Amendment

The Untold Story

- **Alexandria, Virginia:** "Alexandria [VA] had a nationally acclaimed program for using local taxicab companies to transport disabled persons door-to-door to any local destination at city expense. However, after implementing a mandated requirement to modify local buses to permit access for the disabled, the city could not afford to provide the taxicab service. As a result, those using wheelchairs now have to get to and from bus stops that can be some distance from their homes and destinations" (GAO, 4/5/94).

- **Adams County, Pennsylvania:** "Rather than comply with strict federal water testing requirements, Adams County, PA commissioners are considering a cheaper option--buying and passing out bottled water to residents" (Rep. William Goodling (R-PA) testimony, 5/18/94).

- **Anchorage, Alaska:** "In Anchorage, Alaska, the city fathers had to ask local fish-processing plants to dump fish entrails into the city sewer system so the city would have some pollution to remove. Why? Because current law requires a certain percentage reduction in contaminants even from water that is already very clean. So Anchorage's only alternative would have been to build a new $135-million sewage treatment plant capable of finding and removing low levels of organic wastes from the city's normally very clean sewage inflow" (*Washington Post*, 1/15/95).

- **Arizona:** "[O]fficials in Arizona cities such as Tucson and Phoenix say studies of storm water runoff, required by the Environmental Protection Agency, are a waste of millions of dollars in arid regions where waterbeds are dry most of the year" (*CQ*, 12/31/94).

- **Aurora, Colorado:** "Aurora, Colorado ... calculates that it will have to repair some 28,000 curbs in order to comply with the 1990 Americans with Disabilities Act (ADA) at an average cost of $1,500 per curb" (Heritage Foundation, 12/94).

- **Welch, West Virginia:** The town of Welch, West Virginia (pop. 3,500) has been told federal regulations require the municipal government to "spend between $16 million and $22 million to build a new treatment plant and sewer lines up and down hills to serve all of the town's homes and businesses" (*Washington Times*, 12/1/93).

- **Atlanta, Idaho:** "[T]he mountain community of Atlanta, Idaho — population about 50 — has to comply with the same water quality standards as the city of Atlanta, Ga., and its population of 375,000. Meeting the standards isn't the issue, but both systems must conduct the same water quality tests. Needless the say, a $1,500 quarterly test can be absorbed by a large city, but it can break the bank for the town of Atlanta, Idaho" (Sen. Dirk Kempthorne, *Washington Times*, 8/28/94).

- **Columbia, Mississippi:** "The town of Columbia, Mississippi, is nearing completion of a $20 million EPA cleanup project. Soil tests turned up traces of compounds the federal government defines as hazardous, though the amount discovered was only about two ounces per ton of soil. Some experts say the best way to solve the problem was to spread a layer of cleaner soil on top of the contaminated soil at a cost of only $1 million, but the EPA insisted on the most expensive solution, which was to dig up more than 12,500 tons of soil and haul it away. *EPA's goal: to make the dirt so safe that a human could eat half a teaspoon every month for 70 years and not get cancer*" (Heritage Foundation, *Issues '94*, 1994). [emphasis added]

- **Phoenix, Arizona:** "New water quality standards were designed in Phoenix with humid watersheds in mind, like the Potomac basin, but are inappropriate for desert areas. Phoenix is required to 'protect aquatic organisms that cannot exist' in the dry river bed into which its wastewater treatment plants discharge effluent" (Center for the Study of American Business, 1993).

- **Los Angeles, California:** "The city of Los Angeles 'must expend hundreds of millions of dollars to treat water being discharged into the Los Angeles River so that the fish ... can have purer water than humans'" (Center for the Study of American Business, 1993).

- **Palm Springs, California:** "The Endangered Species Act required the city to pay $5,000 to an environmental consultant to search for desert tortoises in dry desert washes which faraway Washington bureaucrats define as 'navigable waterways' under the Clean Water Act's wetlands regulations. No such tortoises were found" (Center for the Study of American Business, 1993).

- **Garden City, Michigan:** "The city has spent over $250,000 over the past three years removing petroleum-contaminated soil so that an asphalt parking lot could be put on top of the soil. Asphalt, of course, is a petroleum product" (Center for the Study of American Business, 1993).

- **Columbus, Ohio:** "[A] Columbus, Ohio, Health Department official cited regulation of the herbicide atrazine, used widely on cornfields, as an example of the costliness of scientific uncertainty in federal Safe Drinking Water Act regulations. According to this official, because atrazine has been determined to be a potential carcinogen, EPA limits atrazine in drinking water to a maximum yearly average of 3 parts per billion. The Columbus official questioned the scientific basis for this limit and suggested that 'at this level an adult would have to ingest about 3,000 gallons of contaminated water per day to be at risk.' The Columbus official further noted that although the city's typical levels are far below 3 parts per billion, the city may be required to install costly EPA-specified technology for atrazine removal" (GAO, 4/5/94).

- "Under the Safe Drinking Water Act ... every water system in the nation is required to monitor for the herbicide used on pineapples, which are grown only in Hawaii, unless a specific waiver is attained. The waiver is expensive and difficult for the water system, and expensive again for the state, which has to judge the merits of the waiver application and tailor its program accordingly" (National Governors' Association, 10/18/93).

Cost Estimates

- "According to the EPA, complying with its rules costs the nation $140 billion in 1994, about 2.2 percent of our Gross Domestic Product" (*Washington Post*, 1/15/95).

- "California officials calculate that in order to comply with federal paperwork requirements mandated by the federal Nursing Home Reform Law of 1987, the state will have to increase Medicaid spending by between $400 million and $800 million" (Heritage Foundation, 7/31/92).

- "In 1980, [Mayor] Koch estimated the cost of converting the [subway] system to conform to federal mandates at $1.3 billion over 30 years, plus at least $50 million in operating expenses" (Heritage Foundation, 7/31/92).

- "Michigan estimated that its spending would rise from $39.6 million to $136.9 million (a 245-percent increase) over the 6-year period 1990 to 1995 due to federal Medicaid mandates" (GAO, 4/5/94).

- "A 1991 Columbus, Ohio, study of federal and state mandates estimated that compliance with existing environmental mandates alone would cost Columbus $1.1 billion over the next 10 years and consume nearly one-fourth of the city's budget by 1996." (GAO, 4/5/94).

- "A Chicago study estimated that between 1992 and 1995, the city would spend over $319 million on unfunded federal and state environmental mandates" (GAO, 4/5/94).

- "The city of San Diego was recently fined $500,000 by the EPA, made to pay $2.5 million for a water conservation program, and forced to spend $2.5 billion for secondary sewage treatment capacity" (Center for the Study of American Business, 1993).

- "Anchorage, Alaska, estimated federal environmental regulations would cost it over $429 million over the 10-year period 1991 to 2000" (GAO, 4/5/94).

- "A 1990 EPA study ... estimates that total costs of environmental mandates (from all levels of government) to State and local governments will rise (in constant 1986 dollars) from $22.2 billion in 1987 to $37.1 billion by the year 2000—a real increase of 67 percent. According to the Vice President's National Performance Review report on the EPA, this figure when adjusted for inflation reaches close to $44 billion on an annual basis by the year 2000" (*Congressional Record*, 1/9/95).

- "Sen. Hank Brown, Colorado Republican and member of the Budget Committee, said unfunded mandates are expected to eat up more than 22 percent of his state's general fund this year" (*Washington Times*, 1/6/95).

- "Between 1983 and 1990 alone, the Congressional Budget Office estimates, new federal regulations cost states and localities up to $12.7 billion" (*Wall Street Journal*, 1/9/95).

- "Gould estimates that federal mandates cost California $8 billion annually, mostly from implementing regulations attached to environmental and health and welfare legislation" (*Washington Post*, 1/9/95).

- "A survey commissioned by the U.S. Conference of Mayors last year asserted that 10 selected federal mandates cost cities $6.4 billion in 1993 and will cost $53.9 billion over the next four years" (*Washington Post*, 1/9/95).

- "The 'motor voter' law, which took effect January 1, has imposed such heavy costs that 13 states are refusing to implement it—and at least one, California, is suing the federal government, alleging that this mandate violates the 10th Amendment" (*Wall Street Journal*, 1/9/95).

- "Environmental activities alone, the EPA estimates, will swallow 30% of state and local government revenues by the year 2000" (*Wall Street Journal*, 1/9/95).

- "Required state spending on Medicaid increased to 17% of all state spending for fiscal 1992, up from 10% just five years earlier. In Los Angeles, thanks to federal mandates, wastewater treatment costs rose from $202 million in 1986 to $838 million in 1993" (Americans for Tax Reform, 1994).

- "The 1987 amendments to the Clean Water Act requiring local governments to rebuild wastewater treatment plants to federal standards, are the single most burdensome mandate imposed by the federal government. The federal government authorized $18 billion to help municipalities. But federal assistance to the states for this program is due to expire at the end of this fiscal year. .... The Congressional Research Service, citing Environmental Protection Agency and local studies, estimates that at least $83 billion in additional capital expenditures are needed to bring all the nation's wastewater treatment plants into compliance with EPA standards" (Americans for Tax Reform citing the U.S. Senate Republican Policy Committee, 10/93).

- Approximately $30 to $40 billion is spent annually by state and local governments to comply with EPA dictates (House Republican Conference, 2/1/94).

- "The so-called 1993 'Motor Voter' Act authorized almost no compensation to state governments for the more than $100 million in cost it will impose over five years" (Americans for Tax Reform citing *The Wall Street Journal*, 8/18/93).

Unfunded Business Mandates

- "Regulators ordered a Kansas City bank to install a Braille keypad, costing $5,000, on its drive-through automatic teller machine. Steve Mauer, the bank's lawyer, emphasized, 'Keep in mind this is a drive-through we're talking about.' As I see it, the only way this regulation makes sense is if it's a police entrapment scheme to arrest blind drivers" (Walter Williams, *Washington Times*, 1/12/95).

ON THE FLOOR

In the House

Environmental policy

Curbing unfunded mandates

HR 5: Unfunded Mandate Reform Act of 1995.

Floor action: Scheduled to resume Monday. House Majority Leader Richard K. Armey (R-Texas) said last Friday that the Republican leadership is aiming for a final vote Tuesday. But there are numerous amendments still pending, and Democrats likely would have to agree to limit debate on their amendments if that schedule is to be met.

The House is operating under an open rule that allows members to bring up any amendments they choose.

The House began work on the bill Jan. 19 and continued consideration last week, pausing Wednesday and Thursday to take up the balanced budget amendment to the Constitution (H.J. Res. 1).

House Republican leaders have been frustrated with the pace of action on the bill. GOP lawmakers have unified to defeat Democratic amendments to exempt various programs from the restrictions set up by the bill. But there still are more than 30 exemption amendments pending, and the House, which is considering amendments to the bill section by section, has not even proceeded to Title I.

On Friday, after 10 full days of debate and amendments, the Senate finally completed work on its companion measure (S 1, S. Rpts. 104-1 and 104-2), voting 86-10 for approval. Over those 10 days, by Senate Majority Leader Robert Dole's (R-Kan.) count, senators submitted 211 amendments, 68 of which were actually proposed and 44 of which required roll-call votes.

Both bills are enthusiastically supported by major state and local government organizations. Halting the growth of federal requirements unaccompanied by federal dollars is a top priority of state and local officials, who long have chafed at Congress' penchant for establishing new programs and then mandating that states and localities administer them.

Much of local officials' ire is aimed at federal environmental laws, such as the Safe Drinking Water Act and the Clean Air Act, which place significant responsibilities on states and municipalities.

The bill also has the support of the U.S. Chamber of Commerce and other business groups.

Environmental groups and other public interest organizations oppose the measure and have pressed to have future bills dealing with public health, interstate pollution and other issues exempted from the unfunded mandates bill's restrictions. Environmentalists argue that the bill would erode federal standards designed to protect public health and the environment.

Bill: The bill, introduced by House Government Reform Committee Chairman William F. Clinger Jr. (R-Pa.), would require a Congressional Budget Office analysis for any legislation that would impose net costs on state and local governments of more than $50 million in a given year.

Any legislation — including floor amendments — imposing unfunded mandates costing more than $50 million then would be subject to a point of order against consideration unless a majority of members in both houses voted separately to waive the rule. An exception would be provided for bills addressing constitutional or civil rights, national security, emergencies or treaty obligations.

Bills proposing new mandates on state and local governments would be in order on the floor if they included provisions to pay for their implementation. Bills that merely authorize funding would be fully enforceable only in years that congressional appropriations were provided to pay for them.

The measure would apply only to new legislation and not existing laws. It also would not affect bills reauthorizing existing statutes if those reauthorizations do not add costly new requirements on states and localities.

In addition, the bill would not apply to proposed mandates on the private sector, except to require a CBO analysis when these requirements surpass $100 million a year. (For more bill details, see Jan. 16 *Weekly Bulletin*, p. A1.)

Last week: House Republicans, joined by some Democrats, defeated amendments to exempt various types of legislation from the proposed restrictions on mandates.

Among these was an amendment offered Jan. 23 by Rep. David E. Skaggs (D-Colo.) to exempt bills dealing with air pollution control. The House also turned back an amendment by Rep. Gene Green (D-Texas) to exempt bills addressing licensing and construction of nuclear reactors, and the disposal of nuclear waste. An amendment by Rep. John M. Spratt Jr. (D-S.C.) to keep the bill from applying to measures dealing with toxic, hazardous or radioactive waste disposal also was voted down.

On Jan. 24, the House rejected an amendment by Rep. Carolyn B. Maloney (D-N.Y.) to exempt bills designed to protect the health of children, which effectively would have shielded some environmental laws.

Amendments: Exemption amendments filed, but not yet offered, include language by Rep. Cardiss Collins (D-Ill.) to shield drinking water bills and by Rep. Robert A. Borski (D-Pa.) to protect bills meant to control water pollution that causes serious human health problems. Rep. Frank Pallone Jr. (D-N.J.) also has an amendment that would exclude bills pertaining "to the coastal waters of the United States."

In addition, Skaggs has filed an amendment that would remove lawmakers' ability to challenge bills on the floor with a point of order.

Other pending amendments would direct CBO to consider the benefits of proposed mandates, in addition to the costs, when analyzing legislation.

Democrats also are seeking changes to prevent federal agencies and Congress from being taken to court to enforce the

measure's provisions. Currently, the bill is silent on the issue of judicial review, and some members are concerned the lack of language will open up agency actions to frivolous legal challenges.

Rep. Paul E. Kanjorski (D-Pa.) has filed an amendment that would have the bill expire on Jan. 3, 2000. Democrats want to provide a "sunset" date for the measure to make sure Congress reviews how it is working.

Other amendments would address concerns about the potentially negative impact the bill would have on private businesses, such as waste disposal firms, that compete with municipalities. (For more details on pending amendments, see Jan. 23 *Weekly Bulletin*, p. A3.) H. Rpt. 104-1, parts I and II. — *Steve Daniels*

Official Business

COMMITTEES:
Natural Resources
Legislative Council

Alaska State Legislature

Office of World trade
And
State/Federal Relations

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SPONSOR STATEMENT

FROM: Representative Ramona Barnes

DATE: January 26, 1995

RE: HJR 20
"Relating to unfunded federal mandates and the Conference of the States"

HJR 20 authorizes the State of Alaska to send a delegation to represent the people of Alaska at a Conference of the States. The delegates would debate and vote on an action plan to restore the checks and balances between the states and the national government.

The resolution notes that the conference will convene no later than 270 days after at least 26 legislatures adopt similar resolutions and that Alaska will be represented by five voting members consisting of the governor or a constitutional officer selected by him, and four legislators, two from each house selected by the presiding officer of that house. No more than two of the legislators selected may be from the same political party. Two alternate legislator delegates, one from each party, would also be selected.

The action plan to be voted on at the conference will be called a States' Petition. It will be presented to each state in the form of a resolution for ratification, then presented to Congress as the will of the states of the Union.

Since 1990 alone, the federal government has enacted at least 42 major statutes imposing expensive regulations and requirements on state and local governments. HJR 20 is an important first step toward reversing that trend and restoring the balanced system of government envisioned by the Tenth Amendment.

American Legislative Exchange Council

The American Legislative Exchange Council (ALEC) was founded in 1973 by a small group of Democratic and Republican state legislators who shared a common commitment to the Jeffersonian principles of free enterprise, limited government and individual liberty.

Today, ALEC is the nation's largest bipartisan, individual membership association of state legislators. ALEC has over 2,600 state legislators as members, with more than 800 holding leadership positions.

We are proud of our bipartisan heritage. State legislators participate in ALEC activities not as members of any particular party, but as Americans united for opportunity and prosperity.

As the nation's leading state public policy institute, ALEC is on the cutting edge of the public policy debate on issues ranging from health care reform to criminal justice reform. ALEC conferences and state policy forums arm state legislators across the nation for participation in these critically important public policy debates. ALEC research identifies public policy needs and proposes real solutions that stimulate economic growth and support the empowerment of people.

ALEC's credo is that business should be an ally, not an adversary, in the development of sound public policy. ALEC legislators and corporate executives work together in a dynamic partnership to develop public policies that harness the immense power of free enterprise to promote America's global competitiveness, and improve the quality of life for all Americans.

Please join us. We are building a winning team, and ALEC needs you now!

"ALEC's vision is clear: 50 prospering states. If ALEC wins the debate, the states will flourish, and the whole world will continue to emulate the American experience."

Come to where the action is...
Come to ALEC!

Sam Brunelli

Samuel A. Brunelli
Executive Director

TESTIMONY OF MARSHALL PETERS OPPOSING THE CONSTITUTIONAL REVISION PERPETRATED WHEN A STATE LEGISLATURE PARTICIPATES IN REVISION BY ENACTMENT OF THE LANGUAGE OF THE CONFERENCE OF STATES PARTICIPATION RESOLUTION.

Testimony of Marshall Peters submitted to the Maryland State Senate Economic and Environmental Affairs Committee, Public Hearing, Feb. 28th, 1995 on Participation Resolution SR6 to create a federal body entitled CONFERENCE OF THE STATES (COS). This sovereign citizen now pleads to the Senate of Maryland through this Honorable Senate Committee: Honorable Chm. Sen. Clarence Blount; Honorable Vice-Chr. Sen. Paula Hollinger, elected as deputy of my sovereign powers and those of all the sovereign citizens of our Senate District of Maryland; and the Honorable Senators of this Committee: Sen. Michael Collins, Sen. David Craig, Sen. Roy Dyson, Sen. Brian Frosh, Sen. Leonard Teitelbaum, Sen. Christopher McCabe, Sen. Paul Pinsky, Sen. Perry Sfikas, and Sen. J. Lowell Stoltzfus, as I now shall set forth:

I, Marshall Peters, at present a sovereign citizen of the State of Maryland, and at present a sovereign citizen of the United States of America as such does declare the language of the Participation Resolution of COS, threatens to destroy these citizenship rights and alter the present relationship between citizens and you our deputies. I call upon each of you to champion my sovereign rights and specifically I DIRECT MY DEPUTIZED Senator PAULA HOLLINGER to champion my civil rights, sovereignty rights, and all deputy powers vested by me as a citizen in her as my Constitutionally elected State Senator. I, Marshall Peters, declare the language of the Participation Resolution of COS, DOES IF ENACTED, THREATEN TO DESTROY THE DEFINITION BY WHICH I AM IDENTIFIED AS A CITIZEN OF A STATE OF THE UNITED STATES, WITHOUT WHICH I LOSE MY SOVEREIGNTY RIGHTS UNDER THE FEDERAL CONSTITUTION.

I, MARSHALL PETERS, DO FURTHER TESTIFY, THAT TO ENACT THIS LANGUAGE WOULD DEPRIVE ME OF REPRESENTATION UNDER THE STATE REPUBLIC GUARANTEED ME IN THE FEDERAL CONSTITUTION.

I OBJECT TO THE DESIGN THAT RESULTS IN ALL POLITICIANS APPOINTED AS DELEGATES.

I OBJECT TO THE DESIGN THAT ENTRUSTS THE GUARDIANSHIP OF THE U.S. CONSTITUTION TO PARTY LEADERS.

WHEN PARTY LEADERS HEAD A FEDERAL BODY, THE CONSTITUTION GUARDIANSHIP EMERGES OUT OF THE AFFILIATIONS OF THE GUARDIANS. I HAVE OBSERVED THIS AS A YOUNG MAN, WHEREBY THE

PARTY LEADER IN GERMANY ASKED FOR ENABLING LEGISLATION TO REVISE THE STUCTURE OF THE GERMAN CONSTITUTION AND THE PARTY LEADER ADOLPH DID SO. I BEG YOU NEVER AGAIN! (Sovereignty of We,the people, vs party sovereignty over people).

I ALSO CALL ATTENTION TO THE REFUSAL ON THE PART OF THE PERPETRATORS OF COS TO FOLLOW THE RULES OF THE GAME. INSTEAD OF FOLLOWING THE RULES OF ARTICLE V, THE COS GROUP IS FOLLOWING AN EMULATION OF THE "RULE BREAKING METHOD" OF REVISION THE FOUNDERS UTILIZED: DISREGARDING ANY REQUIREMENTS OF THE EXISTING CONSTITUTION. THIS LEAVITT METHOD IN PART IS EMBRACING REVISION OF GOVERNMENT BY UTILIZING A REVISION BY "PROCESS OF ENACTMENT".

I FURTHER OBJECT TO THE CONVENOR OF THIS COS BEING AN INTERNATIONAL ORGANIZATION. EVERY STATE LEGISLATOR RECEIVED THE CSG State Government News FOR THIS MONTH, Feb. 1995 in which the article on COS appeared and on pg. 8, may note the CSG Governing Board's sample PARTICIPATION RESOLUTION. Thousands of CSG members have no idea what the Governing Board is attempting to do.

I FURTHER PROTEST THROUGH THIS SENATE BODY, THE MANNER IN WHICH GOV. LEAVITT OF UTAH IS CONCEALING THE DANGERS TO ALL MARYLANDERS THE ENACTMENT of PARTICIPATION LANGUAGE WOULD CREATE AS A PART OF GOV. LEAVITT'S REVISION IN PROGRESS.
FINALLY, I REQUEST THIS RESOLUTION NOT BE ENACTED FOR THE ABOVE AND OTHER REASONS SOON TO BE REVEALED.

Respectfully submitted by:
Marshall Peters
Marshall Peters

21602 N. Ruhl Rd.
Freeland, Md. 21053

CONFERENCE OF STATES CON-CON UPDATE

Here is a list of all the authorized delegates APPOINTED to the "COS con-con of sorts" in the language of PARTICIPATION RESOLUTIONS:

CON-CON DELEGATES AUTHORIZED BY STATES

ARIZONA: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE; MINORITY PARTY LEADER OF HOUSE.

ARKANSAS: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE; MINORITY LEADER OF HOUSE.

DELAWARE: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF THE HOUSE.

IDAHO: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF THE HOUSE.

IOWA: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF THE HOUSE.

KENTUCKY: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF HOUSE.

MISSOURI: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF HOUSE.

OHIO: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF HOUSE.

UTAH: PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF HOUSE.

VIRGINIA:PARTY LEADER OF STATE;PARTY LEADER OF SENATE;PARTY LEADER OF HOUSE;MINORITY PARTY LEADER OF SENATE;MINORITY PARTY LEADER OF HOUSE.

THE FACTS SPEAK MORE ELOQUENTLY THAN ANY STATESMAN. THEIR CON-CON WOULD BE A CONVENTION OF THE PARTY FORM OF GOVERNMENT (PROMOTED BY THE CCS SINCE 1982) ALL DELEGATES WOULD BE FROM STATES THAT HAD STRIPPED SOVEREIGNTY FROM CITIZENS AND EMPOWERED PARTY LEADERS WITH IT WHEN PASSING THE PARTICIPATION RESOLUTION LANGUAGE.

PREPARED FOR CDR BY MARSHALL PETERS OF FREELAND,MD.

OPEN LETTER TO THE MEMBERS OF THE STATE LEGISLATURES
To Senator Mike Fisher c/o Fax #717 772 4437; ph 717 787 5839
Dear Senator Mike Fisher,
As you already know, the Conference of the States is most emphatically not a proposal of the people; it is a highly sophisticated production that is being sold to state officials on a FALSE PREMISE and a DECEITFUL PROMISE.
I am opening this letter to your peers in House Intergovermental Relations Committee. Citizens are not going to go away while you continue to perpetrate a revolution within this State.
PENNSYLVANIA STATE SENATOR MIKE FISHER YOU ARE HEREBY IDENTIFIED, AS HAVING A DUAL LOYALTY. First you are the elected PUBLIC SERVANT of the SOVEREIGN CITIZENS OF THIS STATE AND SWORN TO THIS OFFICE UNDER THE U. S. Constitution. However in your private life you are currently Co-Chair of the Eastern Regional Conference of The Council of State Governments which includes the Province of QUEBEC and QUEBEC CITY. Many citizens have been shocked to learn of the vast network of this CSG ENTITY.
The CSG has sent the Governor of each State a "MODEL" participation resolution vesting delegates with con-con powers to revise the "structure" of our U.S. Constitution. You, Senator Mike Fisher DID SPONSOR SB12 which contains this MODEL. You have used the Senate office entrusted to you by the people, and made oath to serve, to further the "special interest groups" behind a scheme to rewrite the Bill of Rights and The Constitution for the United States of America.
Fraud colors everything it touches. You may argue that since you have not yet succeeded in this revolution, citizens have not yet been harmed in the loss of liberty or civil rights.
Few of us will watch as you hold a knife to the throat of Lady LIBERTY. To us it is the throat of our child, our spouse, our loved one. She shall not be touched!
Remove your knife Sen. Fisher and never again bring your private revolutionary group "MODEL" to the chambers of good and honest men. Therefore, as a sovereign American I RESPECTFULLY REQUEST the Senator seek the permission of the Senate TO WITHDRAW HIS Governing Board of CSG "model resolution" contained in SB 12 and return it to the CSG at their Lexington, Kentucky H.Q.. Thereafter, let us all forevermore continue our lives as Americans in peace with one another.

Sincerely,
Marshall Peters
Marshall Peters
Fax 410 357 5629

Once TO Every Man And Nation Comes The Moment To Decide....To Choose Between Truth Or Falsehood...For The Good Or For The Evil Side.

COS VS WE THE PEOPLE

THE GOOD: YOU ARE THE SOVEREIGN RULER IN OUR CONSTITUTIONAL REPUBLIC OF SEPARATION OF POWERS WITH 280,000,000 "kings" as SOVEREIGNS. THE U.S. CONSTITUTION AND BILL OF RIGHTS HAVE CREATED OUR GOVERNMENT WHERE THOSE ELECTED ARE SERVANTS OF THE PEOPLE. WE THE PEOPLE ARE THE SOVEREIGNS THAT HOLD THE POWER TO MAKE GOVERNMENT SERVE US. THIS IS GOVERNMENT BY THE PEOPLE.

THE EVIL: INTERNATIONAL ORGANIZATIONS NOW FORMING A PARLIAMENTARY GOVERNMENT IN EACH STATE BY COMBINING THE POWERS OF THE STATE EXECUTIVE AND LEGISLATIVE BRANCHES INTO ONE BODY AS A NEW SOVEREIGN POWERFUL GOVERNMENT OVER THE PEOPLE. IF FORMALIZED, GOVERNMENT WOULD BECOME SOVEREIGN AND YOU THE SERVANT OF GOVERNMENT.THIS IS GOVERNMENT OVER THE PEOPLE.

THE INTERNATIONAL GROUP THAT IS THE CONVENOR (convention organizer) IS THE CSG. THE CSG HAS PROVIDED THE LANGUAGE OF THE COS (model draft) PARTICIPATION RESOLUTION SENT BY THE GOVERNING BOARD OF CSG TO EACH GOVERNOR. WHEN A SOVEREIGN STATE GOVERNMENT FOLLOWS DIRECTIONS OF CSG BY IMPLEMENTING THE FORMAL

OFFICIAL RESOLUTION OF PARTICIPATION, THE GOVERNMENT CREATES AN EMBRYO GOVERNMENT SO DESIGNED BY THE CSG METHOD DELEGATED THAT IT IS OF ITSELF AN ALL POWERFUL PARLIAMENTARY CREATURE. WHEN AND IF 34 STATES BECOME "PARTICIPANTS", THIS GATHERING OF PARLIAMENTARY GOVERNMENTS COULD PETITION CONGRESS TO FORM A GOVERNMENT. THIS NEWSTATES GOVERNMENT PLANS TO HOLD IT'S CONVENTION OCTOBER 22,23,24, AND 25TH, 1995 TO ACCOMPLISH THE PURPOSES OF THE INTERNATIONAL LEADERSHIP. OCT. 24TH IS THE FIFTY YEAR ANNIVERSARY OF THE ATTEMPT TO FORM A WORLD GOVERNMENT.

THE COS: IS AN ATTEMPT TO RETURN TO APPOINTED COLONIAL-STYLE GOVERNORS ACTING FOR A RULER WITH GREAT POWER. COS PARTICIPATION RESOLUTIONS CREATE A GOVERNOR WHO WOULD THEREAFTER HAVE BOTH LEGISLATIVE AND EXECUTIVE POWERS AND COULD APPOINT ANOTHER TO HAVE THESE POWERS AS HIS DEPUTY OR PRIME MINISTER. TEN PARLIAMENTARY-STYLE GOVERNMENTS HAVE BEEN FORMED IN THE LAST TWO MONTHS. IF THESE NEW STATE ENTITIES GATHER IN ONE LOCATION THEY COULD UNITE AS THE PARLIAMENTARY GOVERNMENT OF AMERICA. THIS NEW GOVERNMENT IS TO BE CONVENED BY A CONVENOR GROUP (CSG) WHICH IS AN INTERNATIONAL ORGANIZATION COOPERATING WITH OTHER INTERNATIONAL ORGANIZATIONS.

YOU AS AN AMERICAN HAVE THE SOVEREIGN RIGHTS OF CITIZENSHIP, THESE RIGHTS ARE THE SAME WHETHER YOU WERE BORN IN THIS LAND OR CHOSE TO BECOME AN AMERICAN. YOU HAVE THE SAME SOVEREIGN RIGHTS WHETHER YOUR FOREFATHERS WERE FROM ANY OF THE WORLDS PEOPLES SEEKING THE LIBERTY NOW HELD BY YOU.

IF YOU BECOME ELECTED TO SERVE OTHERS YOU TEMPORARILY BECOME A SERVANT OF THE PEOPLE INSTEAD OF A SOVEREIGN CITIZEN.

YOU CHOOSE TO ELECT AS YOUR SERVANT TO REPRESENT YOUR SOVEREIGN CITIZENSHIP: THE SERVANTS OF THE PEOPLE, YOUR STATE GOVERNOR, STATE HOUSE DELEGATE, AND STATEHOUSE SENATOR. AT THE PRESENT TIME THE GOVERNOR IS YOUR SERVANT.

YOUR FOREFATHERS STRUGGLED IN CREATING THIS FORM OF **A SOVEREIGN PEOPLE, WITH THE POWER SEPARATED TO KEEP CITIZEN CONTROL OVER THE HUMAN TENDENCY OF 6000 YEARS OF EVIL RULERS.** THE CENTRAL PRINCIPLE OF YOUR CONSTITUTION IS TO SEPARATE THE POWERS OF A KING WHICH IS YOU AS SOVEREIGN RULER. This is why I am not a slave in Egypt, not a serf in England, not a subject of a Roman Emperor, and I thank my God for His gifts to me that I AM NO LONGER RULED BY GOVERNORS!

CITIZENS WHO HOLD OFFICE ON YOUR BEHALF MAY NOT EXCEED THE POWERS YOU DIVIDE BETWEEN THEM. A JUDGE MAY NOT WRITE OR EXECUTE LAWS, A GOVERNOR MAY NOT JUDGE LAWS NOR WRITE LAWS, AND YOUR STATE SENATOR AND REPRESENTATIVE MAY NOT EXECUTE LAWS, OR JUDGE THEM. LAWMAKERS ARE ONLY MAKERS OF LAW, JUDGES ARE ONLY JUDGES OF LAW, AND GOVERNORS ARE ONLY EXECUTORS OF LAWS. Governors may not propose changes in the federal Constitution unless they become a part of a convention of all the people to revise what "We the People" HAVE NOW.

THE RESOLUTION FOR YOUR PARTICIPATION BY YOUR STATE TO PARTICIPATE IN THE CONFERENCE OF THE STATES (COS); PROPOSES A RULING-STYLE PARTY GOVERNOR WITH BOTH THE EXECUTIVE AND LEGISLATIVE POWERS IN ONE BODY OF STATE. THE LEADERS OF BOTH PARTIES JOIN WITH THIS PARLIAMENTARY GOVERNOR TO FORM A NEW PARTY FORM OF GOVERNMENT IN EACH STATE. THE MAJORITY PARTY OF THE GOVERNOR WOULD BE THE DECIDING VOTE. THE

MINORITY PARTY IN THE NEXT ELECTION COULD BECOME THE MAJORITY PARTY IN POWER. ALL OF THE DELEGATES ARE SERVANTS OF THE PEOPLE FOLLOWING A SELF-APPOINTING PROCESS USED IN DICTATORSHIPS AND NONE OF THEM ARE SOVEREIGN CITIZENS ELECTED TO REPRESENT THE PEOPLE AT ANY REFOUNDING CONVENTIONS. TEN STATES HAVE ALREADY JOINED THIS PARLIAMENTARY FORM OF GOVERNMENT CREATION EFFORT. THE ALL POWERFUL NEW GOVERNOR ALSO IS VESTED WITH THE POWER TO DELEGATE HIS POWERS TO HIS APPOINTED MINISTER. BY PROCESS COS IS CREATING PARLIAMENTARY GOVERNMENT OVER THE FIFTY STATES RIGHT UNDER THE NOSE OF STATE AFTER STATE LEGISLATURES. NOW, YOU ARE INVOLVED, AND NO SOVEREIGN CITIZEN WILL ALLOW THE CITIZEN SOVEREIGNTY TO BE REPLACED BY STATE GUARDIANS OF THE CONSTITUTION BEING TRICKED INTO REVERSING THE WAR FOR INDEPENDECE AND THE CITIZEN TO BE SOVEREIGN UNDER GOD. JUST SAY NO! NO COS BY ANY NAME!

COS IS DESTRUCTIVE BY THIS URSURPATION OF POWERS YOU HAVE PROHIBITED. OVER 40 GOVERNORS TOGETHER HAVE PASSED THE CSG MODEL PARTICIPATION RESOLUTION TO THEIR RESPECTIVE LEGISLATURES. ALL THE RESOLUTIONS HAVE BEEN DESIGNED ALIKE TO RESULT IN YOUR LAWMAKERS (ALL 50 STATES) APPOINTING GOVERNORS TO NOW CONTROL THE POWERS YOU HAVE ALLOWED ONLY TO YOUR LAWMAKERS....THAT WHICH ONLY LEGISLATORS HAVE UNDER ARTICLE V WHICH IS PROPOSING AMENDMENTS TO THE FEDERAL CONSTITUTION.

COS IS A GROUP OF GOVERNORS SEIZING THE DAY TAKING CONSTITUTIONAL POWERS BY USING A GROUP OF LAWMAKERS WHO ARE ASSISTING THEM IN DOING SO! THOUSANDS OF LAWMAKERS BELONG TO A PRIVATE GROUP WITH ORIGINAL OFFICES AT 1313 60TH STREET IN CHICAGO,SINCE HAVING MOVED TO LEXINGTON, KY.. THIS IS THE COUNCIL OF STATE GOVERNMENTS (CSG). THE ORGANIZATION IS UNDER DIRECTION OF EXECUTIVE DIRECTOR DAN SPRAGUE. SPRAGUE'S COTERIE AND

GOVERNING BOARD IS FOLLOWING WHAT IS PRINTED AS "A MESSAGE FROM CSG'S Executive Director"...."Together with the states, we seek out solutions that will work now and well into the 21st century".

WHO IS THE CSG PRESIDENT ELECT?

CSG Pres.-Elect is Gov. Michael Leavitt AND SPEAKS FOR COS STEERING COMMITTEE.

WHO DID PRESIDENT BILL CLINTON APPOINT TO THE ACIR?

PRES. CLINTON APPOINTED CSG PRES.-ELECT MICHAEL LEAVITT TO THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

Sprague's meaning is further clarified by "the CSG International Committee" ..."Goals of the committee include..Increasing interaction with other international organizations...". "The Council of State Governments believes that interaction with the international community in the increasingly interdependent world is essential for the states as they prepare to usher in the 21st century." (DOES THIS MEAN 21ST CENTURY CONSTITUTION?)

MOST CSG MEMBERS HAVE NO IDEA THAT PARTICIPATION RESOLUTIONS FOR COS EMPOWERS SPRAGUE'S CSG "GOVERNING BOARD" TO INCORPORATE CSG MEMBERS AND AGENTS AS THIS PARLIAMENTARY FORM OF GOVERNMENT (USED IN ENGLAND TO APPOINT COLONIAL GOVERNORS). THE GOVERNOR LIMITED BY YOU UNDER THE STATE CONSTITUTION BECOMES A CREATURE OF COS, A DANGEROUS NEW TYPE KNOWN BY FORM OF GOVERNMENT AS A "PARLIAMENTARY" GOVERNOR. THIS NEW FORM OF GOVERNOR UNDER COS IS VESTED WITH BOTH THE EXECUTIVE POWER YOU HAVE ASSIGNED HIM, AND (THE POWER ONLY LEGISLATORS HOLD) LEGISLATIVE OFFICIAL CREDENTIALS TO PROPOSE "STRUCTURAL" CHANGES IN THE FORM OF OUR GOVERNMENT.

MOST CSG MEMBERS DO NOT KNOW WHAT THE GOVERNING BOARD IS ATTEMPTING IN CREATING 50 PARLIAMENTARY GOVERNORS TO RULE AMERICA . COS REQUIRES LEGISLATURES CREATE AN ADOLPH-STYLE GOVERNOR WITH BOTH STATE EXECUTIVE AND LEGISLATIVE POWERS MERGED INTO THE HANDS AND MIND OF ONE STATE ABSOLUTE SOVEREIGN IN EACH STATE. THE CSG IS THE CONVENOR OF A CONVENTION OF THE NEW STATE SOVEREIGNS TO INCORPORATE JULY 6 OR 9TH AS THE NEW FORM OF GOVERNMENT FOR THE STATES. THE CSG PLANS TO CONVENE THE PARLIAMENTARY GOVERNORS IN PHILADELPHIA OCTOBER 22-26 1995. THE NEW GOVERNMENT MAY THEN ANNOUCE THE COUP COMPLETED AND PROCLAIM THEMSELVES THE INTERIM PARLIAMENTARY GOVERNMENT. DISSOLVING THE STATES AND THE UNITED STATES FORMED BY THE PEOPLE MAY THEN BE POSSIBLE. THIS GOVERNMENT WOULD THEN BE THE SOVEREIGN AND YOU WOULD BE A SUBJECT OF THE GOVERNMENT. THUS, YOU CAN SEE HOW COS ACTUALLY IS IN THE PROCESS OF RESTORING THE COLONIAL PARLIAMENTARY POWERS IN THIS COS NEW FORM OF EMPOWERED GOVERNOR. "PUTTING TOGETHER WHAT THE FOUNDERS PUT ASUNDER".....BY "TURNING THE FOUNDERS UPSIDE DOWN".
EMULATION OF THE FOUNDERS BUT REVERSING OUR INDEPENDENCE TO COLONIAL STATUS WITH LIBERTIES GONE. CONTACT YOUR STATE LEGISLATORS AT ONCE!

IF YOU ARE AN AMERICAN AND YOU READ THIS, I BEG YOU...NOW IS THE TIME FOR ALL GOOD MEN AND WOMEN TO COME TO THE AID OF THEIR COUNTRY. ATTEND THE HEARING IN YOUR STATE. EVEN BETTER MEET WITH YOUR STATE LEGISLATOR FOR YOUR OWN HEARING WHERE HE OR SHE CAN SIT WHILE YOU READ THIS TO HIM OR HER. COS CAN NOT CAPTURE YOUR STATE LEGISLATURE UNLESS YOU REMAIN SILENT. TELL THEM WHY YOU LOVE THIS LAND AND DO NOT WANT THE OLD WORLD FORM OF GOVERNMENT. TELL THEM TO VOTE NO! NO COS!

Sincerely,
Marshall Peters

Office of the Governor
Office of Management and Budget
January 31, 1995

Position Statement

HJR 20

The Knowles Administration supports House Joint Resolution 20, relating to unfunded federal mandates and the Conference of the States. The Conference of the States, which is supported by this resolution, has received broad interest and support among the states as a forum for addressing the balance of state and federal powers.

For Alaska, one of the key issues in our relationship with the federal government is not just the funding of federal mandates, but also the flexibility to tailor our government services to meet the unique needs of our state. In many areas — including welfare reform, education, environmental protection and health care — Alaska could benefit from greater freedom to design out own solutions, rather than being required to follow rigid requirements dictated by Washington.

The Administration looks forward to working with the Legislature in presenting a unified Alaska position on the balance of state and federal powers at the Conference of the States.

The Conference of the States An Action Plan For Balanced Competition in the Federal System

Convener: The Council of State Governments in conjunction with the National Conference of State Legislatures and the National Governors' Association
•P.O. Box 11910•Lexington, KY 40578-1910
•606/244-8000•606/244-8001 fax

The Conference of the States

It is an unfortunate fact of American political life that the national government has become so dominant in our federal system that the checks and balances established by the nation's founders are eroding. James Madison, Thomas Jefferson and Alexander Hamilton would be dismayed by the dysfunction and lack of public confidence this imbalance have engendered in the government they formed.

Whenever state and local officials get together, the discussion naturally turns to this problem. In the last few years, the rhetoric has become especially heated over unfunded federal mandates. Local and state leaders across the nation are in near unanimous agreement that something must be done. They introduce legislation, testify before Congress, pass resolutions and give impassioned speeches ... but little changes. State leaders do not lack the desire or energy to take action; what they lack is a plan, a real process. This paper offers a simple but powerful plan.

But first, a dose of reality. Even with the changed political landscape as a result of the last election, we cannot count on Congress to fix this problem by itself. In fact, with the likely prospect of a Balanced Budget Amendment and tax cuts on the horizon, states are at considerable risk that Congress could push its budget problems down to the states. No matter which party controls Congress, it is not likely to relinquish power without feeling the pressure of an electorate that demands it. States must protect the balance that Jefferson, Hamilton and Madison created by advancing structural, permanent reform that will not be subject to the whims of whoever controls Congress. States also cannot depend on the courts or the federal bureaucracy to restore balance in the system. Over the last 60 years, the federal courts generally have not been friendly to states in their disputes with the federal government.

Balance will only be restored in the way intended by Madison, Jefferson and Hamilton -- when states take the initiative. As state leaders (with our allies in local governments), we must step up to our constitutional obligation and compete for power in the federal system. States have a place at the constitutional table. It is the proper role, in fact the obligation and stewardship, of states to be jealous and protective of their role and to fight for balance.

In this quest, state and local leaders face what can best be described as a "dilemma of extremes." At one extreme is the effort currently under way, consisting mostly of complaining, hoping and waiting for more flexibility. Congress has paid lip service, but little has changed. At the other extreme, some activists are calling for states to convene a constitutional convention, a politically unlikely event that is fraught with danger and opposition.

The purpose of this paper is to offer a middle ground, between the two extremes. This plan must be more forceful and assertive than hoping, complaining and waiting, but not so radical as a constitutional convention.

Our tools to create leverage for states fall into three categories: political (in the sense of winning the people's support), legal and constitutional. All three are important. Citizen support for this effort is strong. People feel alienated and disconnected from the federal government. If government is going to make decisions that affect their lives, people want decisions made in their hometown or state capital -- not in Washington, D.C. State leaders recognize they need a formal legal strategy. Too often, important federal court cases have been left to individual states that were inadequately prepared and poorly financed.

Constitutional tools are also crucial. For at least 15 years, respected state and local government organizations like the National Governors' Association, the National Conference of State Legislatures, The Council of State Governments and the U.S. Advisory Commission on Intergovernmental Relations have joined prominent academic and legal scholars in proposing various constitutional amendments that would help restore proper balance between states and the national government.

Using the political, legal and constitutional tools, we believe it is time for states to take the initiative. States must employ a means of communicating their resolve and commitment to Congress and to the American people. It is our job, our responsibility, our stewardship. State leaders must act or be held responsible by history for allowing the brilliant federalist creation of Madison, Jefferson and Hamilton to expire from neglect.

We propose a process that would consolidate and focus state power. This process would culminate in a historic event called The *Conference of the States*. The following is an outline of the process:

- In each state legislature, a Resolution of Participation in The Conference of the States will be filed early in the 1995 legislative session. The resolution authorizes the appointment of a bipartisan, five-person voting delegation of legislators and the governor from each state to attend the Conference.

- When a majority of states have passed Resolutions of Participation, an entity called The Conference of the States will be formed by the delegates from each state. A Steering Committee for the Conference has been formed to propose rules, assuring that each state delegation receives one vote.

- The Conference of the States then will be held, perhaps in a city with historic constitutional significance such as Philadelphia or Annapolis. At the Conference, delegations will consider, refine and vote on ways of correcting the imbalance in the federal system. Any item receiving the support of the state delegations will become part of a new instrument of American democracy called a *States' Petition*. The States' Petition will be, in effect, the action plan emerging from The Conference of the States. It will constitute the highest form of formal communication between the states and the Congress. A States' Petition gains its authority from the sheer power of the process the states follow to initiate it. It is a procedure outside the traditional constitutional process, and has no force of law or binding authority. But it must not be ignored or taken lightly because it symbolizes a test of the states' relevance. Ignoring the Petition would signal to the states an intolerable arrogance on the part of Congress.

- The States' Petition then will be taken back to the states for the approval of each state's legislature. Constitutional amendments included in the Petition will require approval by a super-majority of state legislatures to continue as part of the State's Petition.

- Armed with the final States' Petition, the representatives of each state then will gather in Washington to present the Petition and formally request that Congress respond.

While the Petition would have no force of law and would not be binding on Congress, it is likely that Congress would respond. To ignore the carefully reasoned, formal Petition of America's state legislatures would be unthinkable. Rejection of the Petition would communicate to the people that Congress is unwilling to listen. It would confirm an arrogance that states could not ignore. Rejection also would ignite a national political debate that no candidate for Congress, for president, for governor or for any state legislative race could avoid. The questions of Madison, Jefferson and Hamilton would be asked again: Do we want a government dominated by Washington or a balanced federalist system? The answer to that question is the same today as it was in 1787.

The Conference of the States initiative must be based on some important principles:

- It must be scrupulously bipartisan;
- It must seek fundamental, long-term, structural change, as opposed to attempting to resolve the specific issues of the day;
- It must avoid single-issue causes and proponents. No special-interest groups or individuals can be allowed to co-opt the initiative for their own purposes; and
- It must concentrate state power and focus national attention on federalism.

The Conference of the States
QUESTIONS AND ANSWERS

Who will organize The Conference of the States?

The Conference of the States will be formally organized by governors and delegates appointed by legislative leadership from each participating state. The preliminary work will be overseen by a national steering committee comprised of state elected leaders appointed by The Council of State Governments (CSG), the National Conference of State Legislatures (NCSL), and the National Governors' Association (NGA). CSG, a respected bipartisan organization made up of leaders from all three branches of state government, will be the convener and fiscal agent. The state delegations to The Conference of the States will have final approval of all proposed Conference governance issues and organizational rules.

When will The Conference of the States be held?

It is anticipated that if as many as 26 states pass Resolutions of Participation during the 1995 legislative season, the Conference will be held in the fall of 1995. This would allow a States' Petition to be presented in state legislatures in early 1996, and to Congress later in 1996. If states quickly pass the Resolutions of Participation, this timetable could be accelerated.

Who supports The Conference of the States?

A broad, bipartisan coalition of governors and state legislative leaders from every region of the country has agreed to help plan, organize and participate in The Conference of the States. CSG, NCSL and NGA have all formally endorsed the Conference. Besides governors and state legislators, the coalition of supporters includes other state and local government officials and associations, academics and scholars, and business leaders.

Who will select the participants in the Conference?

The Resolution of Participation, which has been sent to legislatures in every state, provides for five voting delegates from each state. Four of the delegates will be legislators, two from each party and two from each house, appointed by the presiding officers of the houses. The other is the governor. If the governor cannot not attend, he or she can appoint a constitutional officer in his/her place. This process will give the Conference 250 voting delegates, assuming every state participates. Each state will have one vote. Each presiding officer also may appoint two legislative alternate delegates, one from each party, who shall vote in the absence of primary delegates. If a state legislature does not pass the Resolution of Participation, a nonvoting delegation from the state may attend the Conference. The states' final ratification of the States' Petition that emerges from the Conference will be the true test of support by states.

What is a States' Petition?

The action plan produced by The Conference of the States will be called a States' Petition, a new instrument in American democracy. The Petition will be presented to each state in the form of a resolution for ratification. If ratified by the legislatures, the petition will be presented to Congress as the will of the states of the Union. Because the Petition will have gone through such a formal and rigorous process of approval and consensus, it should be considered the highest and most serious level of communication by the states to Congress. If ignored by Congress, states will know they must look to other means to bring a better balance to the federal system.

The States' Petition drafted at The Conference of the States will ignite a major political debate, forcing candidates to take positions on federalism issues. The matter of federal/state competition and balance will become a pre-eminent political issue of the day, providing leverage and making states more competitive. The Petition also will provide a rallying point for citizens who are frustrated and who want responsible change. A number of years ago, the Equal Rights Amendment became a national issue around which debate occurred at all levels of government and in every district. While that amendment did not pass, it had an enormous impact on how Americans view gender and equity issues. In the same way, The Conference of the States and the resulting States' Petition will elevate the issue of federalism to a high level of consciousness and debate.

Where will the Conference be held?

There would be historic symbolism in holding the Conference in Annapolis, Md. That is where a group of states held a conference in 1786 that was a precursor to the Constitutional Convention held the next year in Philadelphia. However, the Steering Committee, in consultation with official state delegations, will determine the location.

Does this effort mean that states can stop fighting against unfunded mandates and other such concerns?

Absolutely not. States must use every means to address this issue. The excellent effort by NGA and NCSL to win passage of unfunded mandates legislation should be pursued aggressively. All of these efforts will complement each other. As The Conference of States moves forward, it will motivate Congress to act on these related issues. States must use legislative, legal and constitutional means to restore balance to the system.

How will the Conference be financed?

It is likely that state legislatures will be asked to appropriate a small amount of money from each participating state to pay the actual costs of the Conference.

What could hurt this effort?

Partisanship and special interests' influence are the two factors that could seriously damage the initiative. Bipartisan support is crucial, or the Conference simply will not be successful. And if any special interest group or single-issue organization takes over or unduly influences the process, it will collapse. Supporters must be willing to put aside partisanship and their concerns on specific issues and focus on broad, fundamental, structural, long-term reforms if the effort is to be efficacious. The Conference must not become a forum for pro- or anti-abortion, or pro- or anti-gun control groups that might want amendments of their own. There are hundreds of causes that people would like to address with constitutional amendments. The Conference is not a forum for such discussions. It must remain focused on the fundamental issue of providing leverage and bringing balance to federal/state relationships. Also, the Conference must not attempt to swing the pendulum too far in the other direction by proposing too much authority for the states. A strong national government is still needed.

How will the Conference of the States agenda be limited to structural reform so that it doesn't get bogged down with myriad special interest issues?

Two important ways: (1) The language of the Resolution of Participation limits the Conference to fundamental structural change, and (2) The rules proposed for the Conference must be consistent with the Resolution of Participation in limiting the conference agenda to fundamental long-range reforms.

Is the Conference anything like a Constitutional Convention?

The Conference will be a forum for states to express their will, but it will have no binding authority or force of law. It is the most powerful way for states to express their will to Congress and the American people short of a Constitutional Convention. Even after the States' Petition is ratified by a super-majority of states, it will merely represent the states' wishes. But it is expected that it will have enough power and influence to motivate Congress to act. The Conference of States is not a constitutional convention, but its process will provide more clout than continuing the hoping and complaining that is presently going on.

Is this a Republican plan or a Democratic plan?

The plan has nothing to do with political partisanship. It is not a Republican or a Democrat plan. It builds upon the research and work accomplished over several years by many groups, including the National Governors' Association, the National Conference of State Legislatures, The Council of State Governments and others. It is supported by governors, legislators and other local leaders of both

major political parties. The fact is that political partisanship will kill this effort faster than anything else. Anyone who tries to make this initiative partisan is an enemy of The Conference of the States, not a supporter. Bipartisanship is a cardinal rule that must be adhered to by all who want to be involved. The plan is motivated by much more than political ideology. While balanced competition in the federal system is important for maximum personal liberty, it is also important for reasons of efficiency, cost-effectiveness and global competitiveness.

Where will the proposals come from that will be considered at The Conference of the States?

The Steering Committee will propose rules governing this matter. However, to ensure that reform proposals considered at the Conference have been carefully analyzed, we anticipate that major national organizations of elected officials (NGA, NCSL, CSG, mayors, county leaders, etc.) will be invited to submit proposals. Thus, all proposals will have been scrutinized before being submitted to The Conference of the States.

Will a conference of a few days provide enough time to adequately discuss and approve these important matters?

The Conference process will likely include more than one meeting. An initial meeting to organize the Conference, receive input and proposals, and establish rules and procedures will be necessary. Then, the official Conference will meet later to discuss, refine and pass the proposals.

What is the role of Congress in this initiative?

We anticipate that a delegation from Congress will be invited to participate in discussions at the Conference, but not be allowed to vote.

Has a Conference of the States ever been held before?

It is fascinating to note that the problem we confront today regarding balance in the federal system is similar to what the founding fathers of this country faced more than 200 years ago with regard to the Articles of Confederation -- only just the reverse. Then, the national government was too weak and the states too strong. Today, the national government is too powerful and the states too weak. In both cases, a lack of checks and balances had thrown the system out of kilter. It is important to see how the founding fathers solved the problems of the weak Confederation. Some of what occurred then can help guide us today in properly balancing the federal system.

The 13 states were, in effect, nearly autonomous countries under the Articles of Confederation. States had all the power. The Confederation Congress had little power. The Congress could not require the states to carry out any of its decisions. Every bill that Congress passed had to be approved by nine of the 13 states. There was no national military; no ability to regulate foreign trade or commerce among the states; no ability to resolve arguments over state boundaries.

George Washington, who became increasingly angry during the Revolutionary War at the national government's inability to provide food, clothes and armaments, sadly described the Confederation as a "rope of sand" and observed that "the Confederation appears to me to be a shadow without substance." Something had to be done, but where would the political will come from to strengthen the national government? It would take courageous people of good will to initiate changes.

The first break came at the instigation of Alexander Hamilton, James Madison and the Virginia Legislature. They called for a Conference of States to consider common interests in commercial regulations. Only five states attended that historic meeting in 1786 in Annapolis, Md. But it was clear to them that something fundamental and structural needed to be done to properly balance

federal-state interests. Out of that conference came a report asking that all states send delegates to another meeting in Philadelphia on the second Monday of the following May. Little did anyone know that invitation would be the thunderbolt that would lead to the birth of our government system. That meeting in 1786 in Annapolis provided a precedent for states to come together to resolve problems in the federal system.

What solutions might be proposed at The Conference of the States?

Before this process even takes place, it would be presumptuous of the supporters to suggest what solutions might emerge. However, there exist some good examples of possible solutions in the suggestions of past commissions and task forces that have addressed the issue. A great deal of important research has been done by NGA, NCSL, The Council of State Governments and the U.S. Advisory Commission on Intergovernmental Relations. With regard to constitutional solutions, most of the scholarly thinking over the past two decades has concluded that states should focus on "process amendments" to the Constitution that, over time, would bring a better balance in the system. It would be foolish for any individual or group to attempt to sort out the precise roles of the national and state governments in a constitutional amendment. No one is smart enough to assign specific programs and tasks to one level of government or the other, and make the system balance. Most programs have become such complex combinations of federal, state and local participation, that it would be disruptive and impractical to attempt swift and precise delineations.

Some parties have suggested amending the 10th Amendment to give it strength and teeth in clearly defining the roles of the two levels of government. But that is problematic because the outcomes of future court cases based on the strengthened 10th Amendment would be so unknown. Constitutional lawyers would argue for years over what impact revising the wording of the Tenth Amendment might have. States would be leaving the fate of federalism entirely to the federal courts and the result could be drastic changes in federal-state roles or no changes at all.

A better strategy would be to focus on "process amendments," the results of which would be much more predictable and that would naturally bring about a better balance in the system over a number of years. A number of individuals and task forces have recommended, for example, adding a clause to Article V that would put states on equal footing with the Congress in proposing constitutional amendments. It would provide a more direct method for states to propose constitutional amendments than the unworkable and never-used Constitutional Convention process. The founders clearly intended states to be able to initiate constitutional reform, as well as ratify amendments proposed by the Congress. Under this amendment, three-fourths of state legislatures could propose an amendment to the Constitution that would become valid unless within a two-year period the Congress rejected the amendment by two-thirds votes of both houses. While the Article V amendment would not immediately change federal-state relationships, it would over time help balance the system because the Congress would be respectful of states' ability to propose amendments and would thus be less officious and overbearing and more considerate of the states' equal role in the federal system. It would still be very difficult to amend the Constitution, but states could propose amendments through a mechanism similar to what Congress enjoys today. It would put the states and the Congress on a more equal footing.

Another example of a "process amendment" is one proposed by former Arizona Gov. Bruce Babbitt at an NGA meeting in 1980. It would give states by petition of two-thirds of the legislatures the power to sunset any federal law except those dealing with defense and foreign affairs. Such an amendment would be much more radical than the Article V amendment, but discussion of it at The Conference of States would certainly get the attention of the Congress.

In themselves, these "process amendment" proposals are neutral in that they are procedural and do not change public policy, appropriations or the roles of the levels of government. But they would

change the framework in which public policy is developed, assisting the states in addressing the imbalances of power.

One other possible amendment is worth mentioning. The Council of State Governments and other task forces have recommended that a sentence be added to the 10th Amendment clearly stating that the courts have responsibility to adjudicate the boundaries between national and state authority. Some feel that addition is necessary because the Supreme Court has ruled on two occasions that states and local governments must defend against federal encroachments by lobbying the Congress through the national political process rather than relying on the federal courts to act as "umpire." In other words, the court did not find any special equal constitutional role for the states, but rather treated them like any special interest group that must petition Congress to improve its lot. State leaders believe that states enjoy an equal role with the national government in the federal system and they should not be at the mercy of Congress in federal-state disputes. The amendment would clarify that the courts must act as neutral referees in such disputes.

Those amendments are simply ideas and suggestions that could be considered at The Conference of States, along with others. The authors are confident that the Conference would focus on reasonable, responsible process amendments that would not be overly disruptive or attempt to precisely delineate the role of the levels of government.

The Conference of the States
BACKGROUND INFORMATION

The evolution of federalism: How the federal government became pre-eminent

A 1989 report by a task force of The Council of State Governments says: "One of the virtues of our federalism is its flexibility which, among other things, enables one or another of our constitutional partners to rise to the challenges of particular moments in our history. So long as the challenges are met and our federalism is brought back into balance on a higher plane, then our federal republic is strengthened by this dynamism. However, when the challenges are not met adequately, and when one constitutional partner becomes so pre-eminent as to begin to endanger the constitutional integrity of the other partners, then our federalism is placed in jeopardy."

There is no question that the federal government has stepped forward at crucial times in the history of this country – when states were unwilling, unable or slow to act – to address important problems. In the natural and intended competition that exists among branches and levels of government, when a need arises or a power vacuum exists, it will be filled by whatever branch or level rises to the occasion. Citizens during the Progressive Era sought major social and economic reforms. States were slow to respond, so reforms occurred at the national level, led by the presidencies of Republican Theodore Roosevelt and Democrat Woodrow Wilson. State primacy was eroded. Industry misconduct then prompted unprecedented national intervention in economic affairs and a new willingness by the American people to look to Washington, rather than to state capitals, for protection against domestic threats to health and safety.

Any last resistance to an expanding national role was overwhelmed by President Franklin D. Roosevelt's vast responses to the Great Depression and World War II. National dollars pumped life into the economy and states surrendered autonomy in exchange for assistance. The states' reluctance to act on environmental regulation and civil rights matters further allowed the national government to usurp state prerogatives. President Lyndon Johnson's Great Society constituted another giant leap in the growth of the federal government. The states did not resist, and the age of fiscal federalism began. Governors and mayors were happy to receive a flood of federal dollars, even if accompanied by burdensome paperwork and regulation. All of this happened in relatively small increments and for

seemingly good purposes. In many cases, it was the fault of state and local governments, which did not respond promptly to serious problems or were willing to give up autonomy for federal dollars.

Today, however, the dynamics of society – and of government and our federal system – have changed dramatically. The Industrial Age of centralized authority and top-down management has ended and we are entering a new era, the Information Age, in which small, flexible, autonomous units, whether business or government, will out-compete and outperform their bureaucratic counterparts. Today, it is state and local governments that are meeting citizen needs, that are providing innovative and workable solutions to problems of health care, social services, education, crime and the environment. In almost every case, these innovative programs are difficult to create and implement because of federal regulatory barriers and constraints. Successful health care and welfare reform programs require dozens of waivers from federal regulations. With true freedom and flexibility – and by leaving funding resources at state levels – states would move much more rapidly to solve society's pressing problems. Today, it is the federal government that is bankrupt, financially and politically. It is the federal government where gridlock occurs, where there is much talk and little action, where one-size-fits-all programs and over-regulation don't fit this nation's diversity. It is a bloated and over-extended – yet unresponsive – federal bureaucracy that has left citizens surly and cynical, distrustful of government and disgusted with Washington. National survey research shows that unprecedented numbers of people feel impotent, unable to influence a government far from home that no longer reflects their interests, that hurts more than helps. Seventy percent of respondents to a Times Mirror survey said dealing with a federal bureaucracy is not worth the trouble. Two-thirds of Americans said Washington needs new leaders. Eighty-three percent said elected officials in Washington "lose touch with the people pretty quickly."

While the federal government was pre-eminent and rose to the challenges of the Industrial Age, state and local governments are ready to rise to the challenges of this new era in history, the Information Age, when diversity, experimentation and local control are needed. States will bring our federalism back into balance on a higher plane, for a more just, clean, safer and prosperous America.

"Balanced competition" in the federal system

In the great debate of the Constitutional Convention in 1787, two issues were of paramount importance: 1) large states vs. small states; and 2) national government vs. state authority. To balance the interests of large and small states, the delegates produced a brilliant solution, today referred to as the Great Compromise. It gave each state equal representation in the U.S. Senate, with representation in the House determined by population. To balance power between the states and the national government, and to prevent domination by any branch of government, the Constitution created what Madison called a "compound republic," with power split between two levels – national and state – and then split again among three branches of government at both levels. "Hence, a double security arises to the rights of the people," said Madison. The new Constitution, along with the Bill of Rights, gave superior power in limited areas to the national government, but reserved all other authority to the states. It intended to keep most everyday governmental functions at the level closest to the people.

The Constitution established a balanced competition among levels and branches of government. The people are protected, and the best public policy emerges, only when those levels and branches are willing and able to compete for power, when checks and balances exist. If any one level or branch of government is unable to compete, power will be concentrated improperly and the rights of the people will be endangered. The Articles of Confederation failed because power was concentrated in states and the national government was unable to compete. The 10th Amendment reserved all nondelegated and nonprohibited power to the states or to the people, clearly reserving a major role for state and local officials. The fact that originally state legislatures elected U.S. senators was

another clear indication that states were to be major players and their interests well represented at the federal level.

As we know so well, over many years the original checks and balances created by the founders have been eroded and the national government has consolidated power and authority, while states have lost power and their ability to compete. The system is simply not working. States are no longer competitive forces able to act as a check and balance to the federal government. Instead of being a full-fledged counterbalance to federal dominance, states are being treated and viewed like administrative units. The protections offered by the Miracle of Philadelphia are significantly eroded. Thus, the federal government is running huge deficits, is over-regulating states and citizens, is imposing one-size-fits-all requirements, is out-of-touch with local concerns, and is engaging in the new dishonesty in government -- unfunded mandates. The solution is to restore competition and checks and balances in the system. States must obtain more leverage so they can compete for power. The Conference of the States is the best means to obtain that leverage.

How this effort differs from past movements like "States' Rights" and "New Federalism"

This initiative is much different than the failed efforts of the past. The states' rights movement became focused narrowly on specific issues and became a threat to civil rights and environmental progress. Under the banner of states' rights, some civil rights were trampled and some radical positions were taken. States' rights failed to acknowledge the need for a strong central government to coordinate state activity on major national issues, and it gained a reputation as being radical and far-out. New Federalism failed because it was not long-term reform. It amounted mostly to the federal government providing funding for states in block grants with some flexibility. New Federalism caused states to ask the wrong question: "Is this program funded?" rather than, "Is this the proper role of federal and state governments?" Later, the federal budget became tight, and some of the money dried up, leaving states to administer many programs without adequate funding.

By contrast, The Conference of the States effort seeks to use a reasoned, responsible process to find the proper federal-state balance. It focuses on fundamental, structural, long-term, rebalancing, not on specific issues or emotional hot buttons. It does not seek to determine the precise roles of state and national governments, but instead relies on a changed framework -- the marketplace -- to slowly sort out the roles over a period of years. This initiative also involves a much more powerful process to create change, bringing together leaders from every state in a bipartisan fashion. No other past federalism initiative has attempted to use such a structured and inclusive process to win consensus.

Timing is critical

The timing for this initiative is right, and it would be a mistake to postpone the Conference beyond 1995. We have just finished a highly partisan political year that has left the citizenry cynical and distrustful of big government. The time to move forward is now. In 1996 we will begin another highly partisan political year that will include a presidential election. That campaign will make it almost impossible to keep the effort bipartisan and to achieve consensus. Thus, the year 1995 is a window of opportunity that we must not miss. There exists plenty of time for this initiative to receive consideration and scrutiny in every state in the country.

How centralization at the federal level hurts states

As the federal government has become pre-eminent, Congress and the bureaucracy have imposed innumerable regulations and mandates that stifle states. Unfunded federal mandates rob states of

innovation capital. They remove incentives and add barriers for states to fulfill their important role as "laboratories of democracy," as described by Supreme Court Justice Louis Brandeis: "There must be power in the states and the nation to remold, through experimentation, our economic practices and institutions to meet changing social and economic needs ... Denial of the right to experiment may be fraught with serious consequences to the nation. It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country." Today, states are doing their best to experiment, and they have come up with innovative solutions to problems. But thanks to myriad federal regulations in every area of government, there is not enough experimentation. States could be far more innovative and find more solutions with more freedom.

Another casualty of federal uniformity and one-size-fits-all regulations is values in government. Many politicians are now talking about values, alarmed at the increasing numbers of fatherless children, children giving birth to children, youth violence and structural welfare dependency. But it is very difficult to insert values and standards in public policy when that policy comes from Washington. Public policy from Washington is almost always values-neutral, devoid of values or reflects the values of the lowest common denominator. It can't be any other way because Washington policy applies equally to the smallest rural town and the biggest big city. Only when public policy is formed at state and local levels can local values and standards be applied. Federal regulations and guidelines preclude the application of values and standards in almost every area of governance.

How states can best compete for power

It is natural and proper for states to compete for power in the federal system. Few people, even many federal officials, disagree that the system is out of balance. It needs fixing. Without a Conference, states truly face a "dilemma of extremes." On one hand, they can go on hoping and complaining, which just hasn't worked. On the other hand, they can call a Constitutional Convention, which is radical and has proven unworkable. The Conference offers a middle ground. It is based on sound principles and requires the support of a super-majority of state legislatures to be successful. It is reasonable and makes sense. It is not radical or extreme. It provides states a powerful tool that they did not have to this point. Even if no amendment is ever adopted, the Conference will have the effect of elevating federalism to a new level of national consciousness. It will have salutary effects, whatever stage it gets to.

Individual states constitute good government because they represent power dispersed through 50 separate entities. That keeps states close to the people and responsive to their concerns. While that quality has virtue as a principle of governance, it makes competing with a monolithic force like the federal government difficult. State power is dispersed. Federal power is concentrated. Dispersed power is at a disadvantage when competing with concentrated power. In order to challenge and compete for their rightful role, states require a rallying event, a means of consolidating their power, showcasing the collective will of the states, and taking collective action. It should be the middle ground between the two extremes ... a process less disruptive than calling a constitutional convention, but one that is more than complaining, hoping and waiting. It should demand results and response and should elevate federalism to a new level of national consciousness. It should be a call to action.

The proper federal/state balance

Our system of federalism was skillfully crafted by the far-sighted founders of this nation to protect individual rights. A system in which states were too powerful and the national government too weak would be just as bad (or worse) than the situation we find ourselves in today. Balanced federalism has provided the framework within which generations of Americans have prospered and enjoyed freedom. For many decades, balanced federalism provided government close to home,

increasing flexibility and innovation in public policy. It has supported the diversity that has made this nation great. "Our federalism," says a 1989 report by a task force of The Council of State Governments, "is a precious form of government that has stood the test of time against the twin perils of anarchy and tyranny which have heretofore dominated the history of mankind."

The supporters of this plan believe in a reasonably strong central government, as outlined in the Constitution. This effort is not an attempt to destroy the federal government or to make states the dominant players in our system. The intent is to restore necessary checks and balances, with balanced competition – a level playing field – between the states and federal government. In a balanced system, state and federal leaders will still compete and disagree with each other. Each level will still try to address problems. There will still be discussions, negotiations and compromise on a wide range of issues. But the negotiations will be peer-to-peer, rather than master-to-servant. And discussions will focus not just on "Is it a good program?", but also, "Is it a state or national function?" That's what balanced competition is all about. Even with aggressive state action and some structural change, it will take a number of years for proper balance to be restored. There is no quick fix or silver bullet. Sixty years of centralization will not be undone overnight.

A new era in society with new governance needs

The present arrangement of centralized control at the federal level, with programs administered by huge bureaucracies, is not positioning our country for growth and prosperity in the next century. It is somewhat ironic and is an enormous tribute to the inspired work of our country's founders that the form of government they instituted more than 200 years ago – a national government with limited, but pre-eminent duties, and state and local governments charged with all other functions – remains the best form of government in the new high-tech era we are entering. Our country will be well-served by a return to that form of government. We might call it "Information Age Federalism."

Successful organizations everywhere are de-centralizing and downsizing. Bureaucracies are being dismantled across the world. Futurist John Naisbitt said, "In one of the major turnarounds in my lifetime, we have moved from 'economies of scale' to 'diseconomies of scale;' from bigger is better to bigger is inefficient, costly, wastefully bureaucratic, inflexible and now, disastrous" (John Naisbitt, Global Paradox William Morrow & Company, Inc., New York 1994). He added that the almost perfect metaphor for the movement from bureaucracies of every kind to small, autonomous units, is the shift from mainframe computers to PCs, networked together. "Whether president or CEO, if you are an old mainframe thinker, you are no longer relevant."

Centralized, bureaucratized government – one huge mainframe – is obsolete. In modern government, the deployment of power must shift from vertical to horizontal; from hierarchy to networking; from central government to states and citizens. As Naisbitt says, politics must begin to re-emerge as the engine of individualism.

Futurist Alvin Toffler said, "The diversity and complexity of Third Wave (Information Age) society blow the circuits of highly centralized organizations. Concentrating power at the top was, and still is, a classic Second Wave (Industrial Age) way to try to solve problems" (Alvin Toffler, Creating a New Civilization: The Politics of the Third Wave The Progress & Freedom Foundation, Washington, D.C., 1994) Overcentralization puts too many decisional eggs in one basket, said Toffler. The result is decision overload. "Thus, in Washington today Congress and the White House are racing, trying to make too many decisions about too many fast-changing, complex things they know less and less about." Leaders and citizens at local levels have better information and can respond faster to both crises and opportunities. In this necessary decentralizing effort, Toffler said, "The private sector is charging ahead on a supersonic jet. The public sector hasn't even unloaded its bags at the airport yet." It is necessary, Toffler said, to "move a vast amount of decision-making downward from the national level. There is no possibility of restoring sense, order and management

efficiency to government without a substantial devolution of power. We need to divide the decision load and shift a significant part of it downward."

It is not possible, Toffler said, for a society to de-massify economic activity, communications and other crucial processes without also being compelled to decentralize government decision-making as well. However, "nowhere is obsolescence more advanced or more dangerous than in our political life. And in no field today do we find less imagination, less experimentation, less willingness to contemplate fundamental change. The decisive struggle today is between those who try to prop up and preserve industrial society and those who are ready to advance beyond it. This is the super-struggle for tomorrow."

But even as the world's successful business leaders decentralize and move power to the lowest possible point in the organization, our national government grows ever bigger and more bureaucratic. It is outdated and old-fashioned. It is not suited for the fast-paced, high-tech, global marketplace we are entering.

Conclusion

This process is reasoned; it is careful. It relies on the good sense and patriotism of governors, state legislators and local government officials from across this country. This effort is bipartisan and free from special-interest group influence.

The process outlined in this paper gives state and local leaders a plan. It gives them a "big gear" to ultimately solve many of the lesser problems they encounter with the federal government. They can do more than just complain and talk. They can act. They are the only ones who will work to restore balanced competition in our federal system. Congress never will. The bureaucracy never will. The courts never will. The president never will. But state leaders working closely with their citizens will.

The Conference of the States

A state movement demands equal partnership with the federal government.

State legislatures across the country this year will consider convening a Conference of the States to fix an imbalance of power between the states and the federal government.

The Conference will take place when 26 states approve an identical resolution calling for it.

A bipartisan group of four governors and dozens of officials from almost every state approved the idea Dec. 4 at a meeting of the Governing Board of The Council of State Governments, a 61-year-old nonprofit, nonpartisan institution.

"We have moved from the talk stage to the action stage," said Gov. Ben Nelson, a Democrat from Nebraska and the outgoing president of CSG. "It is time for us to move even further here today. States, counties and cities need to have the authority to take care of the issues close to their people."

A Conference of the States would attempt to shore up the powers of the states in the federal system, a problem state leaders say has intensified in the last two decades. Examples of this problem include a growing number of underfunded and unfunded mandates from Congress, expansion of the federal bureaucracy and the restraints that federal laws place on state attempts to improve services, like health care and welfare.

Republican Gov. Mike Leavitt of Utah quoted passages from James Madison's Federalist Papers during the meeting as he urged state officials to pass the plan. "James Madison might well have known that a meeting like this might need to occur," he said. "... That there would be a need for states to band together."

The proposal to convene a Conference of the States was approved almost unanimously in a voice vote after state officials questioned Govs. Nelson and Leavitt about the idea: How would it work? Who would participate? What is the next step?

The Conference of the States would work like this: States will receive a proposed resolution supporting the idea for introduction in their legislative chambers. When a majority of legislatures passes the resolution, a steering group will convene the Conference, probably in the fall of 1995. Each state that passes the resolution will send a five-member delegation consisting of the governor and a bipartisan mix of legislators. If the governor from that state were unwilling or unable to attend, then a fifth delegate would be elected.

Delegates to the Conference will debate remedies that states could use to correct the imbalance of power and then adopt an action plan. Remedies could range from legislative to legal strategies to possible constitutional solutions. The plan then will be sent back to state legislatures for ratification.

At the very least, the Conference of the States will be a good opportunity for states to get the word out about what they have accomplished, officials said.

"States really have become the engines of innovation and change," said CSG Executive Director Dan Sprague. "Every state has revised its constitution, updated its ethics laws and lives within its means. People need to hear how states have become leaders in reinventing government."

Concerns about the Conference of the States were raised by Wisconsin Sen. Fred Risser, who said he was concerned the process might become an opportunity for special interest groups to further their goals. "Unless you can convince me," he said, "I am quite apprehensive."

In response, Leavitt said that any action proposed by the Conference of the States would have to be approved by three-quarters of the state legislatures before it could become an official statement of that body. "If 75 percent approve it," he said, "then I think it is wise."

Leavitt said there were three things that could kill the Conference of the States, which he termed deadly sins:

- If the Conference becomes a partisan issue, then it will fail. Of the four governors at the CSG meeting who spoke in favor of the plan, two were Democrats and two were Republicans.
- If the Conference became tied to an issue like gun control, abortion or school prayer, then it would fail. Supporters have been careful to say that this effort is not an attempt to turn back the clock. Rather, it is an attempt to correct the imbalance so that government is more efficient.
- And if the Conference becomes tied to any group or personality, then it would not succeed.

After reciting these deadly sins, Leavitt looked to the dozens of state officials gathered at the table. He said, "The time has arrived. This may be a historic moment."

CSG will continue to communicate with state leaders about the next steps for the Conference of the States. □

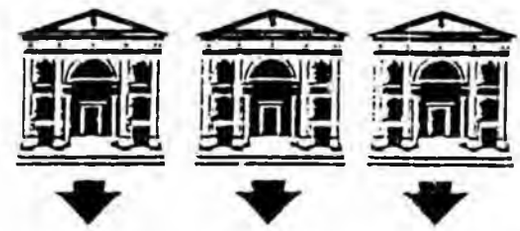
Conference of the States

Proposed by the Council of State Governments

Pictorial Summary

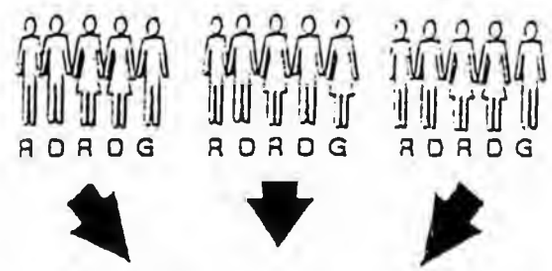
Step 1:

- Each state legislature adopts a Resolution of Participation
- Each legislature appoints a bipartisan delegation of four legislators and the Governor to attend the Conference of the States



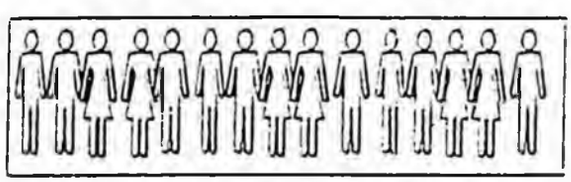
Step 2:

- When a significant majority of states have passed the Resolution of Participation, the Council of State Governments will convene bipartisan incorporators appointed by legislative leadership in the participating states



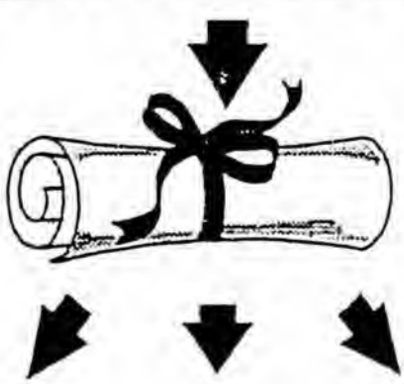
Step 3:

- The Conference of the States is held
- Solutions to restore balance are discussed, refined and voted upon



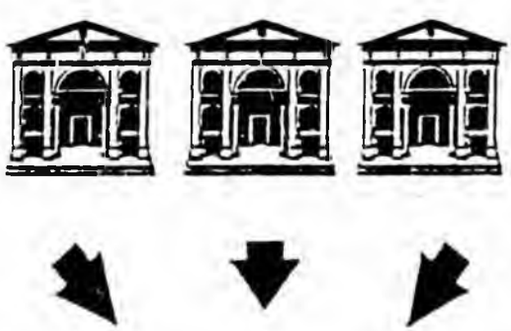
Step 4:

- The product of the Conference of States is a document, a new instrument in American democracy called a "States' Petition"
- The States' Petition constitutes the highest form of communication between the states and Congress



Step 5:

- The States' Petition is carried back by delegates to their respective state legislatures for approval.
- States' Petition items which involve constitutional amendments require approval of a constitutional majority of state legislatures



Step 6:

- The States' Petition is presented to Congress
- Ignoring a constitutional majority of states would signal an arrogance on the part of Congress—an arrogance the States and the American people would find intolerable

Ban on unfunded mandates is first step

By TOM FINK

The U.S. House and the U.S. Senate have each passed their own versions of the unfunded mandates act. The versions aren't much different. In the normal course of events, the differences will be reconciled in a final bill and signed by the president before the end of the month.

If it turns out to be the first step towards a prohibition of unfunded mandates by the federal government, the unfunded mandates act will drastically change and improve our government structure.

This legislation is a big step forward, but by itself, it does not go far enough.

The bills passed by the House and Senate are quite limited. They only affect future legislation and leave all the existing unfunded mandates in force.

The legislation provides that if a federal government agency estimate of the cost of any proposed federal law exceeds $50 million to state and local governments, the law will not be effective unless there is a separate vote by Congress imposing the additional costs.

Further, the final bill will end up exempting some federal laws from the unfunded mandates prohibition, such as the American Disabilities Act.

Fink

I was very much involved in the unfunded mandate campaign as mayor of Anchorage. Our proposal and the one basically supported by the U.S. Conference of Mayors was very simple. It said that any federal law which places a cost on the state or local government can be ignored by state and local government unless it is fully funded by the federal government.

We, as mayors, argued the fairness concept. Congress shouldn't be able to say it is doing good things while making subordinate governments pay the cost.

We said there was no accountability on the part of Congress from such actions. We said that many federal laws apply very well in some regions of the country, but don't apply in other regions.

We said these laws made local government spend tax money on lower priorities.

To the extent that we have a federal law or constitutional amendment denying the federal government the power to impose costly legislation on state and local governments, the power of governance will shift to local and state governments.

The federal government certainly does not have the money to pay for all the laws that it passes. If Congress attempted to increase federal taxes to the level necessary to fund those mandates, the public would elect a new Congress because the increase would be so large.

Some people in the United States greatly fear unfunded mandates legislation. These generally are people who believe that government has all the answers. These are the people who feel that the citizens will not make good decisions on a local or state basis. They really believe that people only make decisions based upon what is in the best interest of society as a whole.

This legislation is a big step forward, but by itself, it does not go far enough.

These are people who have been able to change the structure of our government through the use of the courts and our federal Congress. They have successfully promoted federal laws that do not represent the will of the public in general.

If the federal government can't pass laws without funding them, we will approach a much more representative form of government.

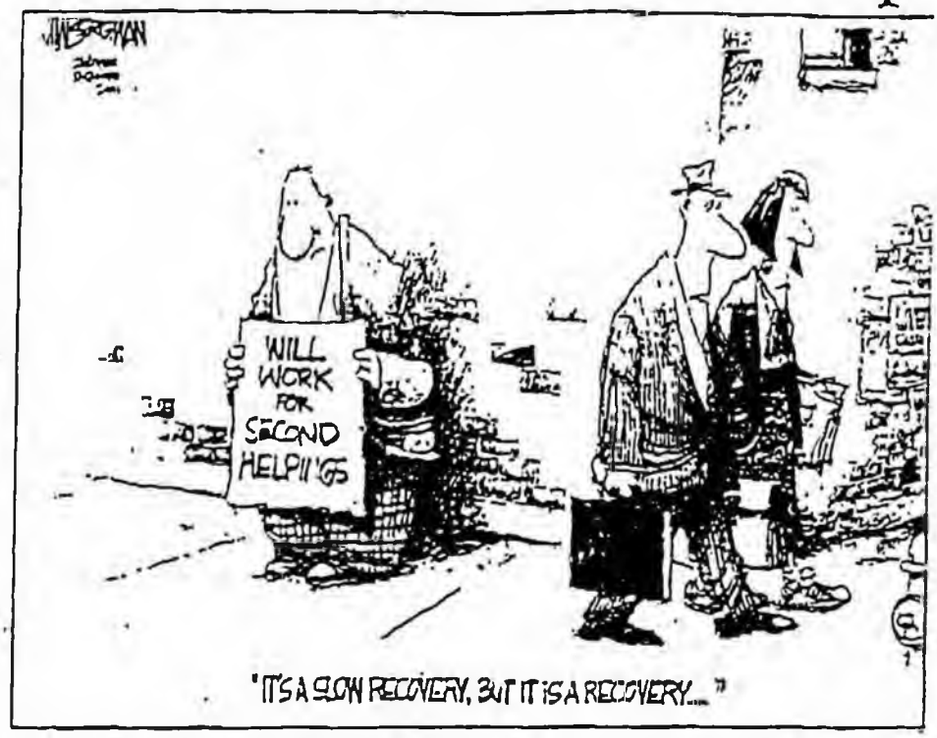
Anyone who has been in government knows that local government is most responsive to the wishes of its constituency. The state government is the next most responsive. The federal government is the least responsive.

Congress is so far away, we can't track what the members are doing. We just cannot understand why federal lawmakers pass the laws that they do. When we quiz them, we are given examples wherein they voted on "our side."

It is only occasionally, such as in the last November elections, that the public gets so fed up that it creates a huge upheaval. The public said in November, *inter alia*, we don't want Congress deciding what we should spend our money on. Let local and state government decide for what our taxes are spent. We have more control over our state and municipal governments.

To the extent that you have any influence over your senators or your congressman, please encourage them to approve in final form an unfunded mandate bill that prohibits all unfunded mandates.

Businessman Tom Fink is a former speaker of the Alaska House and mayor of Anchorage.



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Denver

February 4, 1995

To Whom It May Concern:

The Tenth Amendment Resolution was sponsored by me in Colorado to enable our state to take a strong stand against the unconstitutional behavior of the Environmental Protection Agency. Since then, it has taken on a new proportion as other states adopt a similar resolution.

Our present Constitution gives us all the rights we need for states to reclaim their sovereignty. There is no need for a new Constitution. There are those, however, who wish to embrace the Tenth Amendment Movement in order to call for a Conference of States (COS). This is a constitutionally dangerous act to take. A meeting of states, fully sanctioned by state legislatures, has the power to turn such a confsrence into a Constitutional Convention by resolution. It would mean the death of our present Constitution.

For these reasons, I am opposed to the Conference of States proposal. Although there are many ways to prevent the COS from becoming a Constitutional Convention, I have not found the leadership of the COS to be willing to take even the smallest step in that direction. There will be amendments to the resolution for the COS in some states in an attempt to preclude the COS delegates from allowing the COS to become a Constitutional Convention. These amendments will not work, however, since the COS delegates, once assembled, are in fact considered to be representatives of the people, not the legislatures. There are many court rulings to support the contention that they may, therefore, disobey or ignore any prior instructions. Please do what you can to prevent your state's participation in the COS. It is but one more step that would ultimately mean the end of our present very precious Constitution.

Sincerely,

Charles R. Duke

Charles R. Duke

January 23, 1995
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66 Sen. Majority.

By Charles M. Duke
State Senator - District 9 86 3055 Bill info

For some time now there has been a movement afoot in this nation for states to call for a Constitutional Convention (Con-Con). To date, 32 states have made a request for a Con-Con by passing a joint resolution through their state legislative bodies. Colorado is one of these, having passed Senate Joint Memorial 1 in 1978.

There are many, this writer among them, who believe this would be a very serious mistake. Usually, the Con-Con (sometimes called Philadelphia II) is proposed to meet in Philadelphia and the document most often suggested to replace our present Constitution is the Newstates Constitution, which will be the subject of a future column.

There are three states which have rescinded their request. The promoters of the Con-Con, however, contend that passing a joint resolution to rescind that state's request does not actually alleviate the fact that the request was in fact made. It is the same philosophy that says you cannot unring a bell.

At least one of these three (Nevada) included in their rescission resolution the direction to return to the official records for 1979, which was the year Nevada adopted their request (SJR 8) for a Con-Con, draw a black border around the portion of the journal which contained SJR 8, and write the words, "Expunged by order of the Assembly this 24th day of June, 1989", across the face of the record. The effect of this, which

passed the Nevada Assembly in 1989, is to actually remove from the historical record the request itself. This should place Nevada in a stronger position legally to deny that its request for a Con-Con is any longer valid.

For a Con-Con to happen, it must have been requested by 34 states. Depending on your viewpoint concerning rescissions, we are either 2 short or 5 short of that moment. The promoters of Philadelphia II have been unable to secure the final two states. You will see why when you see more details of the Newatatea Constitution.

As the States' Rights Movement gains momentum across America, there have been and will continue to be attempts to stop or sidetrack the movement. In general, Philadelphia II promoters are moving in the opposite direction from state sovereignty.

A clever but insidious device created by Governor Michael Leavitt of Utah last year calls for a Conference of States (COS). This idea was picked up by a lobbying organization known as the Council of State Governments (CSG), which may be thought of as the ultimate government lobbying agency. Its members, with memberships paid by tax dollars, belong to all levels of government, from state to county to city. Late last year, the idea of the COS was endorsed by the National Governor's Conference.

This COS is an extremely dangerous action to take. An officially sanctioned meeting by 38 states has the power, if it wishes, to turn itself into a Con-Con by simply passing a resolution to that effect. It derives this power from the Tenth

Amendment, which fundamentally says that states have any power they wish, so long as it is not prohibited by the Constitution. The COS differs from other national meetings that might be held because the appointment of the delegates and the state endorsement of the meeting are by a resolution from your legislature, most unusual.

As further evidence, CSG speaks of the need for "structural, long-term changes" to government being needed. It is proposed that COS be held in Philadelphia in the late Summer or early Fall of 1995. Gov. Leavitt's own position paper on the COS states that our national government is "outdated and old-fashioned." He states, "It is not suited for the fast-paced, high-tech, global marketplace we are entering. There is a much better way."

In the Colorado general Assembly, we have Senate Joint Resolution 9, introduced on January 19, 1995, by Senator Jeff Wells, the Majority Leader of the Colorado Senate. It is Colorado's request to participate in the COS. Our delegation would consist of seven members, one from the Governor's office and three each appointed by the Speaker of the House and the President of the Senate.

It is said their work will have to be ratified by the states, and people no doubt think that means the Legislature. But our Constitution permits ratifying conventions to ratify changes or replacement of our Constitution, completely bypassing the state legislatures. The COS could decide all these matters in convention, including the appointment of delegates to a ratifying convention.

SJR 9 represents a process that should be defeated. The last Conference of the States that was called in 1786 ultimately resulted in a new Constitution. Although that document was momentous, many participants in that conference warned us not to let it happen again. The Con-Con con must be stopped.

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...."TO TURN THE FOUNDERS UPSIDE DOWN"....

HOW YOUR CITIZEN SOVEREIGNTY IS BETRAYED

The Council of State Governments (CSG) was created as one of the Creatures of the 1313 syndicate based at 1313 60th street in Chicago, Illinois. The CSG identifies itself as an international organization working with other international organizations. Rewriting the American Constitution is ONE of the activities TO WHICH KEY PARTICIPANTS WITHIN this international organization are currently dedicated. American state government guards the Constitution and there are over 7,000 elected state lawmakers who represent the SOVEREIGN CITIZENS of as many segments of the government institution, EACH REPRESENTATIVE OF THE PEOPLE IS ELECTED BY THE PEOPLE TO BE THE GUARD OF THE CONSTITUTIONAL GUARANTEES OF THE SOVEREIGN CITIZENS IN EACH DISTRICT. In order to deceive and remove these guardians of the "rules of the game", the CSG magazine is promoting on page 8, revolutionary legislation designed by Clinton's ACIR appointee and Pres-elect of the CSG AND others known to this man. He is a very ambitious Governor of UTAH, Gov. Mike Leavitt. The WhiteHouse appointed ACIR member, Leavitt is working with a coterie which took over the Governing Board of CSG on Dec. 4, 1994. After approval of his interim scheme at that meeting, Leavitt and eleven others launched a scheme for State Governors to become Appointed TO CONTROL THE POWER OF ALL ELECTED Guardians of the Citizen's Sovereignty! TO REPLACE the 7,000 plus state representatives of the people of the United States THAT fail to act to guard "the rules of the game", Leavitt and his coterie could become the 50 governors with CONTROL OVER THE CONSTITUTION AND BILL OF RIGHTS. The CSG sends its magazine, State Government News to all the legislators in their international outreach. Within the United States the February 1995 issue features an article: "The Conference of the States: Launching lasting change". The first paragraph of Leavitt's "Resolution of Participation" is clearly the orders from the top for 7000 American Guardians to transfer the Sovereignty of We, the people of the United States,....to THEY the 50 GOVERNORS. Governors are the Executive branch of our state governments. A specific group now prohibited by the language of Article V of the U. S. Constitution. Executives of laws both state and federal are the specific group to whom who we have never in 200 years entrusted the amendment process for changing our Sovereignty. Leavitt's coterie is DIRECTLY CONFRONTING THE CENTRAL PRINCIPLE OF THE AMERICAN CONSTITUTION....THE SEPARATION OF POWERS. Governors must never be given law making power as in the foreign governments; AND for THIS reason, the Participation Resolution is THE

SURRENDER OF CITIZEN SOVEREIGNTY TO THESE SCHEMING POWER GRABBERS! If formalized the ACIR member Leavitt scheme will create a Government of 50 SOVEREIGNS WITH A GOVEREIGNING OF as territorial GOVERNORS replacing the government by 280,000,000 Sovereign citizens. If you object to becoming the subject of this foreign form of government, let your state and federal legislators hear your OBJECTIONS at once. Tell YOUR LEGISLATURE GUARDS to vote NO Participation resolution! THIS ATTEMPT TO REPLACE YOU AS THE SOVEREIGN MUST BE STOPPED. ONE GEORGE THE THIRD WAS CAUSE FOR BLOODSHED. The elected Governor of your state BECOMES BY DEFINITION "a person appointed to govern a province, territory, etc.". Shall you allow the creation of 50 RULERS OVER THE PEOPLE by an international group working with other international organizations to celebrate the U.N. FIFTIETH, OCT. 24TH perhaps with FIFTY "APPOINTED" GOVERNORS PRONOUNCING A NEW WORLD CONSTITUTION FOR THE 21ST CENTURY? I THINK NOT, AS FOR ME, MY AMERICAN BLOOD SAYS NO. Let us stop this peacefully and at once before the perpetrators can order Foreign Soldiers to kill our nation with military support of this planned destruction of citizen sovereignty. May God give us wisdom and guidance to use the truth to keep us free, as sovereign people under our God in whom we trust.

Marshall Peters

Marshall Peters
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This Watch assesses the danger to the Republic severe due to the cleverness of fraud and unperceived deception. TO PREVENT BLOODSHED TIME IS OF THE ESSENCE. AWAKE THE TOWN AND TELL THE PEOPLE.

Open letter on COS PROCESS to all State Representatives

As one Governor involved has REVEALED COS: "con-con of sorts"; COS is accomplished by Enactment Process language of the Participation clauses: As another Governor involved acknowledges these. COS "POWER IS IN THE PROCESS":UNLESS YOU STOP IT!

United States Constitution Threatened

UNITED NATION'S 50 YEAR PHILADELPHIA EVENT OCT. 24, AS (ACIR- CSG PLOTTERS) SORTED CON-CON GROUP MEETS TO FORMALIZE THE REVISONS BY PROCESS THAT IS BEING DONE BY THE LANGUAGE IN THE PARTICIPATION RESOLUTIONS IF APPROVED BY THE STATE LEGISLATURES. A CAREFUL STUDY REVEALS THE ENTIRE AARON BURRESQUE SCHEME IS TO DERIVE POWER WHICH RESULTS WHEN A STATE PASSES PARTICIPATION LANGUAGE. THE POWER IS IN THE PROCESS. THE BATTLES IN EACH STATE IS OVER THE SURRENDER OF CITIZEN SOVEREIGNTY TO APPOINTED PARTY LEADERS AS HEADS OF PARTY PARLIAMENTARY STATES. THE CON-CON OF SORTS WOULD BE A CONVENTION OF SOVEREIGN GOVERNORS THAT HAD BEEN APPOINTED BY THE VIOLATION OF THE PEOPLES LIBERTIES. THUS, THE U.N. CONVENTION PARTICIPANTS WOULD NO LONGER BE DELEGATIONS OF SOVEREIGN CITIZENS BUT AARON BURRESQUE POLITICAL LEADERS OF BOTH PARTIES. THIS GATHERING OF PARTY LEADERS IF ALLOWED TO SUCCEED WOULD CREATE A PARTY

LEADERS CONSTITUTION AS DID PARTY LEADER-ADOLPH IN GERMANY. YOU MUST ACT NOW TO PROTECT YOUR SOVEREIGN RIGHTS UNDER THE CITIZENS U.S. CONSTITUTION. PARLIAMENTARY GOVERNORS CONVENTION OCT. 22-25, 1995 NEEDS MANY MORE AARON BURRS BEFORE CLAIMING TO SPEAK FOR ALL THE STATES. LET'S STOP THEM! STOP THE PARTICIPATION RESOLUTION IN YOUR STATE. HERE IS SOME INFORMATION THAT MAY HELP. Jo Hindman identified the ACIR as a U.N. cell placed inside the federal branch by Public Law in 1959. The White House appointed Mike Leavitt to the ACIR. In 1988 this agency recommended that the states create a COMMITTEE ON CONSTITUTIONAL REVISION. ACIR MEMBER Mike Leavitt is acting as CLINTON-CUTLER pointman to pass a "package of Constitutional amendments" prepared by this White House federal agency and by Clinton's former White House counsel Lloyd Cutler and his associates in the CCS . The package is designed to destroy the present U.S. Constitution in a massive super-fraud scheme to "turn the founders upside down"! There is incredible power in Art. 10 in the protection from unconstitutional acts and actions of would be dictators and metrocrats. Art. 10 totally stops at the present time, more than 250,000 pages of "executive orders" for a federal dictatorship published. Americans are protected from this ACIR CREATURE by our BILL of RIGHTS Art. 10. Consolidation of our State POWER under a CLINTON ACIR APPOINTEE with the FIRST AGENDA to TRY TO GRAB ALL THE POWER RESERVED TO THE STATES AND TO THE PEOPLE KNOWN AS THE BILL OF RIGHTS Art. 10, and place it under Supreme Court INTERPRETATION!

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February 6, 1995

OPINION LETTER RE: CONFERENCE OF THE STATES

To: HONORABLE MEMBERS OF THE COLORADO SENATE & HOUSE OF REPRESENTATIVES

I have been requested by certain Members of both the Senate and House to prepare an opinion letter regarding The Conference of the States and Senate Joint Resolution 95-9.

I. THE PROCEDURE FOR AMENDING THE U.S. CONSTITUTION:

It is worth reviewing the amendment procedure set forth in Article V of the U.S. Constitution in order to insure the proper context is established for analyzing the matters addressed in this opinion.

Article V establishes a two step process for amending the U.S. Constitution:

1. Methods of proposing amendments; and
2. Procedures for ratifying amendments.

Proposing Amendments:

Article V provides two methods for proposing amendments: (1) by two-thirds vote of both houses of Congress; or (2) on application of the Legislatures of two-thirds of the States to Congress to call a constitutional convention. My research indicates that all amendments made thus far have been pursuant to the first method and that no amendment has been proposed by a constitutional convention.

Ratifying Proposed Amendments:

Article V provides that proposed amendments can only become effective by either of two procedures: (1) by ratification of the Legislatures of three-fourths of the States; or (2) by conventions of three-fourths of the States. It is in Congress' sole discretion to decide which method of ratification is required. Both methods of ratification, by Legislatures or conventions, call for action by deliberative assemblages representative of the people, which it was assumed would voice the will of the people.

II. THE CONFERENCE OF THE STATES:

The Conference of the States has been proposed by the Council of State Governments (the "Council"), whereby legislatures of the States adopt resolutions that commit them to participate in the Conference of the States. The purported object of the Council and The Conference of the States is to "*enhance excellence in state government through leadership*" and "*compete for power in the federal system.*"[1] The Council also contends that the Conference of the States will produce a result that "*has no force of law or binding authority.*"

In a Pictorial Summary the Council provides an overview of the six steps that comprise convening and conducting the Conference of the States. The following is a brief summary and critique of each of those six steps.

Step 1: Each state legislature passes a "*Resolution of Participation,*" which provides that a state will participate in a Conference of the States. In addition, each state legislature is to appoint a bipartisan delegation of four legislators (presumably two from each house, assuming a bi-cameral legislature) and the governor.

This step immediately raises the question: why must each state take legislative action (i.e., pass a *Resolution of Participation*) in order to attend a Conference that does not result in anything that has the "*force of law or binding authority?*" As will be demonstrated below, it is my opinion that the Conference of the States is intended to result in something that will have legal effect.

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[1] See "The Conference of the States An Action Plan For Balanced Competition in the Federal System" and "The Council of State Governments Fact Sheet."

Step 2: After a "*significant*" majority of states have passed *Resolutions of Participation* a Conference of the States will be held in an "historical city" such as Philadelphia. The term "*significant*" majority means, in reality, a constitutional majority, to wit: two-thirds of the States. This is made clear in Step 6. The question then becomes: Why must a constitutional majority of states pass *Resolutions of Participation*? It is my opinion that the answer is simple: if constitutional action is decided upon at the Conference of the States, then there will be the necessary *constitutional* majority present to take such action.

For all practical purposes once a constitutional majority of states have passed *Resolutions of Participation* the remaining states will want to be represented at the Conference. Accordingly, it is my opinion that all states will pass *Resolutions of Participation* and attend the Conference, thus presenting a number of states that exceed a *constitutional* majority.

Step 3: The Conference of the States is held and solutions to problems are "discussed, refined, and voted upon."

First, the use of the term "Conference" is troubling because it is my opinion that the Council was careful not to use the term "convention." In the context in which the Conference of States is being convened, the term "conference" is synonymous with "convention." This is true because the Constitutional Convention of 1787 was comprised of a group of delegates who were sent by the legislatures of the several States to propose recommendations to Congress regarding amending the Articles of Confederation.

Second, there is no precise agenda prior to convening the Conference; nor are there any restraints on the subject matters that can be raised at the Conference. Although the Council makes an oblique reference to the balance of power between the States and federal government, for all practical purposes any problem can be framed in those terms. Accordingly, it is probable, if not inevitable, that the Conference will raise, debate, and vote on issues never contemplated or debated by legislatures that passed *Resolutions of Participation*.

Third, the Conference will make its own rules and procedures, which were not approved by the legislatures.

Fourth, and most alarming, there is no guarantee that the Conference will not make "application" to Congress to call a constitutional convention. As mentioned above, there is no case law concerning the second method of proposing amendments to the Constitution. If the Conference decides that it wants to turn itself into a constitutional convention it need only make "application" to Congress. As will be discussed below, the Supreme Court has interpreted Article V to place

complete discretion in Congress when the amendment procedures set forth in Article V are invoked. Furthermore, and as will be discussed below, there is Supreme Court authority to support the proposition that the courts will not intervene in or interfere with the amendment process. If the Conference decides to become a constitutional convention that action might not be reviewable by the courts; thus no way to stop it once commenced.

Step 4: The Conference of the States will produce a written document entitled: "*States' Petition.*" The Council indicates that the *Petition* is "*a new instrument in American democracy*" and "*constitutes the highest form of communication between the states and Congress.*"

Presently, the highest form of communication between the States and the Congress is an "application" to convene a constitutional convention (see Article V). Does the Council mean to say that the Petition would be supreme to Article V? or, more likely, does it mean to say that the Petition is tantamount to an "application" to Congress pursuant to Article V? Whichever is the case, the Council is not being honest with its use of terms, nor with its intentions.

Step 5: A copy of the Petition is taken back by the delegates to their respective legislatures for approval, including ones that contain constitutional amendments. As mentioned above in Step 2, the document produced by the Conference clearly contemplates one that has "force of law" and "binding authority." In our constitutional form of government, there is nothing with greater force of law or binding authority than the Constitution and its amendments.

Step 6: After passed by a constitutional majority (i.e., two-thirds) of the legislatures of the States, the *Petition* is presented to Congress. Here the Council declares that "*ignoring a constitutional majority of states would signal an arrogance on the part of Congress.*" It is obvious that one consequence of the Conference can be a *Petition* that calls for a constitutional convention. Thus if the Conference does not convert itself into a constitutional convention during Step 3, it can still accomplish that end in Step 6.

III. DANGERS OF THE CONFERENCE OF STATES:

The predominate danger mentioned above is that in Step 3 the Conference will decide to make "application" to Congress to convert itself into a constitutional convention. Alternatively, there is a danger that the *Petition* will serve as an "application" to Congress to call a constitutional convention.

The hidden danger of all of this is raised by the question: what is the remedy if any of the these events takes place? The answer to this question proves most disturbing. In order to completely understand the import of the Conference of the States, a review of U.S. Supreme Court decisions interpreting Article V is necessary. It is important to again note that all Supreme Court decisions have dealt exclusively with the first method of proposing an amendment (i.e., the Congress proposes the amendment); whereas no case has addressed the situation where the Legislatures of the several States have made application to Congress to call a constitutional convention.

The first controversy over Article V occurred rather early in our history with the adoption of the Eleventh Amendment. In the case of *Hollingsworth v. Virginia*, 378 U.S. (Dall.) 378 (1798), the issue was: when Congress proposes an amendment must the president of the United States provide approval? The Supreme Court answered this question in the negative, reasoning that Article V is not a typical piece of legislation coming within Article I's law making power but rather is a specific procedure to amend the Constitution:

> "There can, surely, be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition, or adoption, of amendments to the Constitution."

The next controversy occurred with ratification of the 18th Amendment, which concerned prohibition. In 1917 Congress passed a joint resolution proposing the prohibition amendment. In its resolution, Congress included a proviso that the amendment must be ratified by the necessary number of states within seven years. The controversy arose in the case of *Hawke v. Smith*, 253 U.S. 221 (1920), which concerned an Ohio statute that submitted approval of constitutional amendments to the people of Ohio through the referendum process. The Supreme Court concluded that Article V required approval of amendments not by the people directly but by three-fourths of either the legislatures of the several States or of conventions of the several States.

Another example of Congress' discretion under Article V is illustrated in *Dillon v. Gloss*, 256 U.S. 368 (1921)(the 18th Amendment), where the Supreme

Court held that Congress has complete discretion under Article V to fix specific time limits for ratification of proposed amendments.

The case that provides the Conference of States with the tools by which to harness the amendment process is *Coleman v. Miller*, 307 U.S. 433 (1939). In June, 1924, Congress proposed an amendment to the Constitution known as the Child Labor Amendment. In January, 1925, the Kansas Legislature passed a resolution rejecting that amendment. Twelve years later in January, 1937, the Kansas Senate re-introduced the amendment. Twenty senators voted in favor, and a like number voted against. The tie was broken by the lieutenant governor, who voted in favor of the amendment, which was subsequently passed by the Kansas House of Representatives.

A suit was filed in the Kansas Supreme Court by the twenty senators who voted against the amendment and members of the House of Representatives requesting the court to nullify the endorsement of the amendment. The senators and representatives contended that the lieutenant governor was not part of the Kansas Legislature for Article V purposes and, therefore, he could not cast the tie-breaking vote; that the previous rejection in 1925 served to kill the amendment in the state of Kansas; and that the amendment was not ratified in a reasonable time (i.e., the thirteen year hiatus between Congress' proposing and Kansas' ratification of the amendment). The Kansas Supreme Court would not nullify the approval of the amendment. The senators and representatives sought review in the U.S. Supreme Court.

In *Coleman* the Supreme Court concluded that the dispute was political in nature and, therefore, the courts should not interfere. Specifically, the Supreme Court concluded that:

> "The previous rejection [in 1924 and subsequent ratification in 1937] should be regarded as a political question pertaining to the political departments, with ultimate authority in Congress in the exercise of its control over the promulgation of the adoption of the amendment."

In short, in *Coleman* the Supreme Court concluded that if there was any impropriety in the manner in which a state ratified an amendment the remedy rests not in the courts but in Congress. In other words, if there is some perceived or actual irregularity in the proposal or ratification process the objections can be raised only in Congress. Accordingly, the hidden danger of the Conference of States is that if the Conference decides to convert itself into a constitutional convention or to treat the *Petition* as an "application" to Congress, then pursuant to *Coleman* the Conference's actions cannot be challenged in court (i.e., it cannot be stopped).

The political question doctrine is designed to remove controversies from the courts that are purely political in nature. It is my opinion that the Conference of the States and the methods used to facilitate it would be interpreted to be political in nature thus shielding it from judicial scrutiny. What follows are possible scenarios that might occur.

Scenario One: During Step 3, the Conference decides that it wants to make "application" to Congress to call a constitutional convention. Congress has two choices: one, it could determine that the Conference has no authority to make "application" under Article V; or two, it could accept the "application" and call a constitutional convention, whereby the Conference could be converted into such a convention. It appears that pursuant to *Coleman* Congress would be exercising its political discretion and exclusive power under Article V. Accordingly, no judicial review could be sought.

This is not far fetched if one recalls that the delegates sent to Philadelphia in 1787 went there with strict guidelines to consider only amendments to the Articles of Confederation. Once convened, however, the delegates converted into a constitutional convention, tossed the Articles of Confederation, and drafted a new document. It is my opinion that what occurred in Philadelphia from May through September, 1787, was guided by Divine Providence and will not occur again in the history of this Country. Accordingly, a constitutional convention must be avoided.

Scenario Two: Upon completion of Step 4, the Conference could send the *Petition* to the Congress as an "application." Similar to Scenario One, Congress would have complete discretion under Article V to decide upon accepting or rejecting the *Petition* as an "application."

Scenario Three: In Step 6, the Petition is transmitted to the Congress. Similar to Scenario Two, Congress could accept the Petition as an "application" and call a convention.

One might argue that limiting provisions in the "*Resolution of Participation*" could serve to provide a basis for a court challenge. While this might work, it should not be considered 100% fail safe because *Coleman* could be applied to prevent a court challenge.