

HJR

22

<TARGET><BILL>HJR 22</BILL><SUBJECT>HJR
22</SUBJECT><COMM>HFIN28</COMM></TARGET>

(11)

Date Referred to Committee: February 7, 2014

FURTHER REFERRALS:

Date of Committee Action: 2/28/14

The FINANCE Committee considered:

HJR 22

HOUSE JOINT RESOLUTION NO. 22

Requesting the United States Congress to call a convention of the states to propose amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of federal government officials; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states.

HJR 22-FEDERAL CONSTITUTIONAL CONVENTION

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 DHS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	LEG			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Holmes				
	Edgmon			X	
	Muñoz				
	NEUMAN				
Jammie Wilson	T. Wilson	X			
	Cave				
	CASTELLO				
Chair:	AUSTRMAN			X	

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HJR 22
Fiscal Note Number: 1
(H) Publish Date: 2/7/14

Identifier: HJR22-LEG-SESS-02-05-14
Title: FEDERAL CONSTITUTIONAL CONVENTION
Sponsor: T.WILSON
Requester: House State Affairs

Department: Alaska Legislature
Appropriation: Legislative Operating Budget
Allocation: Session Expenses
OMB Component Number: 782

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial Version

Prepared By:	Jessica Geary, Finance Manager	Phone:	(907)465-6626
Division:	Legislative Affairs Agency	Date:	02/05/2014 02:45 PM
Approved By:	Pamela Varni, Executive Director	Date:	02/05/14
Agency:	Legislative Affairs Agency		

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HJR 22

Analysis

This Legislative has zero fiscal impact on the Legislative Affairs Agency.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HJR 22
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HJR22-LEG-SESS-02-05-14
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Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

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(discuss reasons and fund source(s) in analysis section)

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If yes, by what date are the regulations to be adopted, amended or repealed?

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Initial Version

Prepared By: Jessica Geary, Finance Manager
Division: Legislative Affairs Agency
Approved By: Pamela Varni, Executive Director
Agency: Legislative Affairs Agency

Phone: (907)465-6626
Date: 02/05/2014 02:45 PM
Date: 02/05/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HJR 22

Analysis

This Legislative has zero fiscal impact on the Legislative Affairs Agency.

**Alaska State Legislature
House of Representatives
Representative Tammie Wilson**

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**House Joint Resolution 22
Sponsor Statement**

“Requesting the United States Congress to call a convention of the states to propose amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of federal government officials; and urging the other 49 states to request the United States Congress to call convention of the states.”

It is the solemn duty of the states to protect the liberty of its people, particularly for the generations to come, to propose amendments to the Constitution of the United States through a convention of the states under article V to place clear restraints on these and related abuses of powers.

Article V, U.S. Constitution states: *“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.”*

By calling a convention of states, we can stop the federal spending and debt spree, the power grabs of the federal courts, and other misuses of federal power. The current situation is precisely what the Founders feared, and they gave us a solution we have a duty to use.

Convention Of States Project and HJR 22/SJR 18

Don Brand
Alaska Legislative Liaison
COS Project



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

Submitted as Public Testimony

What is COS?

- A Project of the Citizens for Self-Governance
 - Mark Meckler and Michael Ferris
 - Sen. David Long, Indiana, active in planning process
- Founded to stop the Federal Government from spending money it does not have, denying the rights of the states and threatening the liberty of the people.
- Our goal: to urge and empower state legislators to call a Convention of States to propose amendments to the Constitution to limit the power of the Federal government.
- Washington, D.C., is broken and will not fix itself.



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

Four Issues Today are of Increasing Concern

- The Spending and Debt Crisis
- The Regulatory Crisis
- Congressional Attacks on State Sovereignty
- Federal Takeover of the Decision Making Process



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

Calling a Convention of States Provides a Means to Create Solutions

The Founders knew the federal government might one day exceed the limits of their delegated powers

The most important check to this power is Article V

Article V gives states the power to call a convention for the purpose of proposing amendments to the Constitution



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

Article V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, *or, on the Application of the Legislatures of two thirds of the several States*, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of the Constitution, when ratified by the legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

The Process for Method #2

- 34 states submit applications for the same issue
- Congress is required to call the convention
- Commissioners debate, propose, and vote upon possible amendments
- Proposed amendments are sent to the states for ratification
- If 38 states ratify, the proposed amendments become part of the Constitution



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

The COS Approach is Different from Past Calls for a Convention

- Calls for a convention for a particular subject rather than a particular amendment
- For the purpose of **limiting the power and jurisdiction of the federal government**
- Creating a complete package of restraints



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

HJR 22/SJR 18 Follows Approach #2 and The COS Roadmap

- Call For A Convention of States
- Call for a Convention by Subject, rather than specific amendments
- Limited to :
 - Imposing Fiscal Restraints on the Federal Government
 - Limiting the Power and Jurisdiction of the Federal Government
 - Limiting Terms of Office for Federal Officials
- Leaving it to the Convention to propose and debate solutions.



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

Past Attempts have Failed for Various Reasons

- Over 400 Calls for a Convention in the History of the US
 - None have achieved the 34 state threshold to proceed
- Too specific or complex to encourage agreement
 - 34 States must make substantially the same request to proceed
 - Far more difficult to achieve agreement without the benefit of a convention to resolve differences
- COS believes a simple call for a working convention to address the general issue has a much better opportunity to succeed



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

COS is Gathering Momentum

- Grassroots organizations are building in 40 states
 - Alaska has a State Director, Coalitions Director, Legislative Liaison, 57 other signed up volunteers, and hundreds of supporters
- Ten states have filed or pre-filed a COS application
- GA Senate passed the COS application this week



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

USA

OKLAHOMA MISSISSIPPI INDIANA

WASHINGTON ILLINOIS WYOMING

SOUTH CAROLINA OREGON TEXAS

CONNECTICUT ARKANSAS NEW HAMPSHIRE KENTUCKY

MICHIGAN ALASKA MASSACHUSETTS CALIFORNIA IOWA

MINNESOTA MARYLAND SOUTH DAKOTA GEORGIA OHIO

CONVENTION OF STATES

CONVENTIONOFSTATES.COM

A HANDBOOK FOR LEGISLATORS AND CITIZENS

Second Edition



SELFGOVERN.COM



CONVENTION OF STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

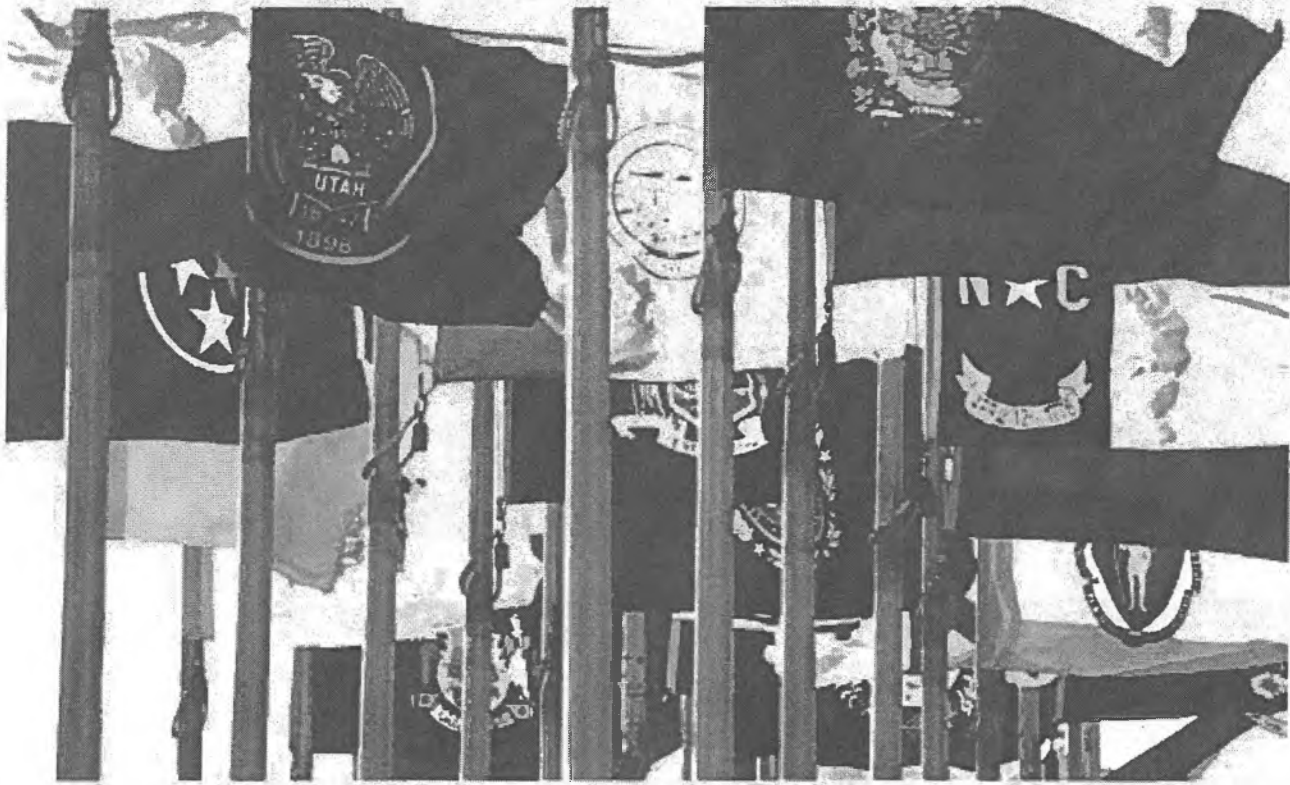
A Solution As BIG As The Problem!

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Introduction

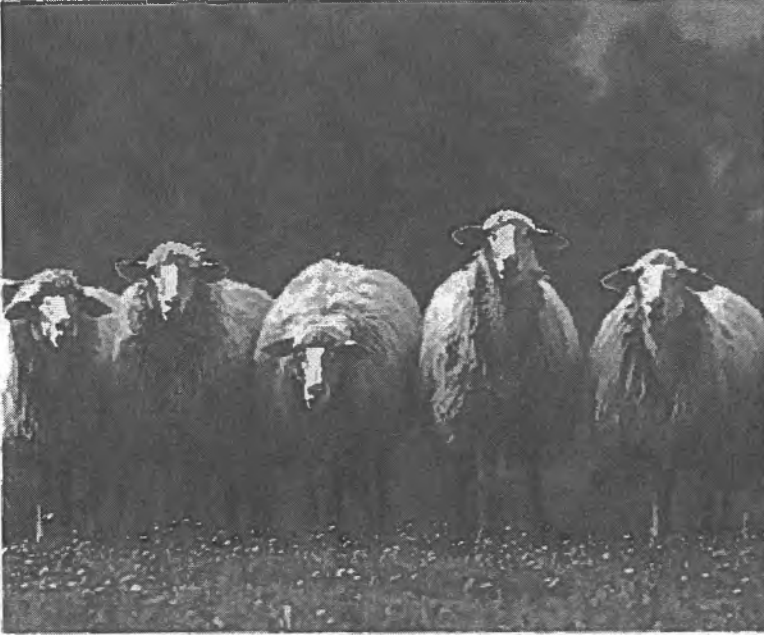


The public widely believes our nation is headed in the wrong direction. They believe that future prospects are troubling, not only for this generation but for generations to come.

The public is correct.

What is not widely known is that the Constitution itself provides a real, effective solution. Mark Levin's bestselling book, *The Liberty Amendments*, has opened the eyes of millions of Americans to the possibility of stopping the federal abuses of power through a Convention of States. Although we began the COS Project independently, our plan is a near-perfect match with Levin's ideas.

The plan we propose does not commit us to any particular amendments. That will be up to the states when they convene. But it does commit us to a particular subject—a convention must be held to limit the power and jurisdiction of the federal government.



If we do nothing to halt these abuses, we run the risk of becoming, as Alexis de Tocqueville warned, nothing more than "a flock of timid and industrious animals, of which the government is the shepherd."

Washington, D.C., is Out of Control and Will Not Relinquish Power

We see *four major abuses* of the federal government.

- The Spending and Debt Crisis
- The Regulatory Crisis
- Congressional Attacks on State Sovereignty
- Federal Takeover of Decision Making

These abuses are not mere instances of bad policy. They are driving us towards an age of "soft tyranny" in which the government "softens, bends, and guides" men's wills. If we do nothing to halt these abuses, we run the risk of becoming, as Alexis de Tocqueville warned in 1840, nothing more than "a flock of timid and industrious animals, of which the government is the shepherd." (Alexis de Tocqueville, *Democracy in America*, 1840)

1. The Spending and Debt Crisis

The \$17 trillion national debt is staggering, but it only tells a part of the story. If we apply the normal rules of business accounting, the federal government owes at least \$50 trillion more in vested Social Security benefits and other programs. This is why the government cannot tax its way out of debt. Even if they confiscated everything owned by private citizens and companies, it would not cover the debt.

2. The Regulatory Crisis

The federal bureaucracy has placed a regulatory burden upon businesses that is complex, conflicted, and crushing. Little accountability exists when executive agencies—rather than Congress—enact the real substance of the law. Research from the American Enterprise Institute, shows that since 1949 federal regulations have lowered

the real GDP growth by 2% and made America 72% poorer.

3. Congressional Attacks on State Sovereignty

For years, Congress has been using federal grants to keep the states under its control. By attaching mandates to federal grants, Congress has turned state legislatures into their regional agencies rather than truly independent republican governments.

A radical social agenda and an erosion of the rights of the people accompany all of this. While substantial efforts have been made to combat the social engineering and protect peoples' rights, we have missed one of the most important principles of the American founding. State legislatures need to be free to implement the will of the voters in their own states, not the will of Congress.

4. Federal Takeover of the Decision-Making Process

The Founders believed the structures of a limited government would provide the greatest protection of liberty. There were to be checks and balances at the federal level. And everything not specifically granted to Congress for legislative control was to be left to the states and the people.

Collusion among decision-makers in Washington, D.C., has overrun these checks and balances. The federal judiciary supports Congress and the White House in their ever-escalating attack upon the jurisdiction of the fifty states. This is more than an attack on the independence of the states. This robs the people of their most fundamental liberty—the right of self-governance.

We need to realize that the structure of decision-making matters. Who decides what the law shall be is even more important than what is decided. The

protection of liberty requires a strict adherence to the principle that power is limited and delegated.

Washington, D.C., does not believe this principle, as evidenced by an unbroken practice of expanding the boundaries of federal power. In a remarkably frank admission, the Supreme Court rebuffed a constitutional challenge to the federal spending power by acknowledging their approval of programs that violate the will of the Founders:

This framework has been sufficiently flexible over the past two centuries to allow for enormous changes in the nature of government. The Federal Government undertakes activities today that would have been unimaginable to the Framers in two senses; first, because the Framers would not have conceived that any government would conduct such activities; and second, because the Framers would not have believed that the Federal Government, rather

than the States, would assume such responsibilities. Yet the powers conferred upon the Federal Government by the Constitution were phrased in language broad enough to allow for the expansion of the Federal Government's role.

New York v. United States, 505 U.S. 144, 157 (1992).

This is not a partisan issue. Washington, D.C., will never voluntarily relinquish meaningful power—no matter who is elected. The only rational conclusion is this: unless some political force outside of Washington, D.C., intervenes, the federal government will continue to bankrupt this nation, embezzle the legitimate authority of the states, and destroy the liberty of the people. Rather than securing the blessings of liberty for future generations, Washington, D.C., is on a path that will enslave our children and grandchildren to the debts of the past.



“This is not a partisan issue. Washington, D.C., will never voluntarily relinquish meaningful power — no matter who is elected.”

“We need to realize that the structure of decision-making matters. Who decides what the law shall be is even more important than what is decided.”

Congress OF THE United
 begun and held at the City of New York, on
 March, one thousand seven hundr.

“By calling a convention of states, we can stop the federal spending and debt spree, the power grabs of the federal courts, and other misuses of federal power.”

The Founders Gave Us a Solution: A Convention of States

Many people don't know that there are two methods to propose amendments to the Constitution.

1. Two-thirds of each house of Congress agrees to propose a particular amendment.
2. Two-thirds of the state legislatures pass applications for a convention for the purpose of proposing amendments on the same subject.

The Founders knew the federal government might one day become drunk with the abuses of power. The most important check to this power is Article V. Article V gives states the power to call a convention *for the*

purpose of proposing amendments to the Constitution.

By calling a convention of states, we can stop the federal spending and debt spree, the power grabs of the federal courts, and other misuses of federal power. The current situation is precisely what the Founders feared, and they gave us a solution we have a duty to use.

After the states propose, debate, and vote upon the proposed amendments, they will be sent to the 50 state legislatures for ratification. Congress *must* choose one of two “modes of ratification.” They can either submit the amendments to state conventions

elected for that purpose or to the state legislatures. Three-quarters of the states must agree for any of the proposed amendments to be ratified.

Congress has no authority to stop such a process. The Founders made sure of that.

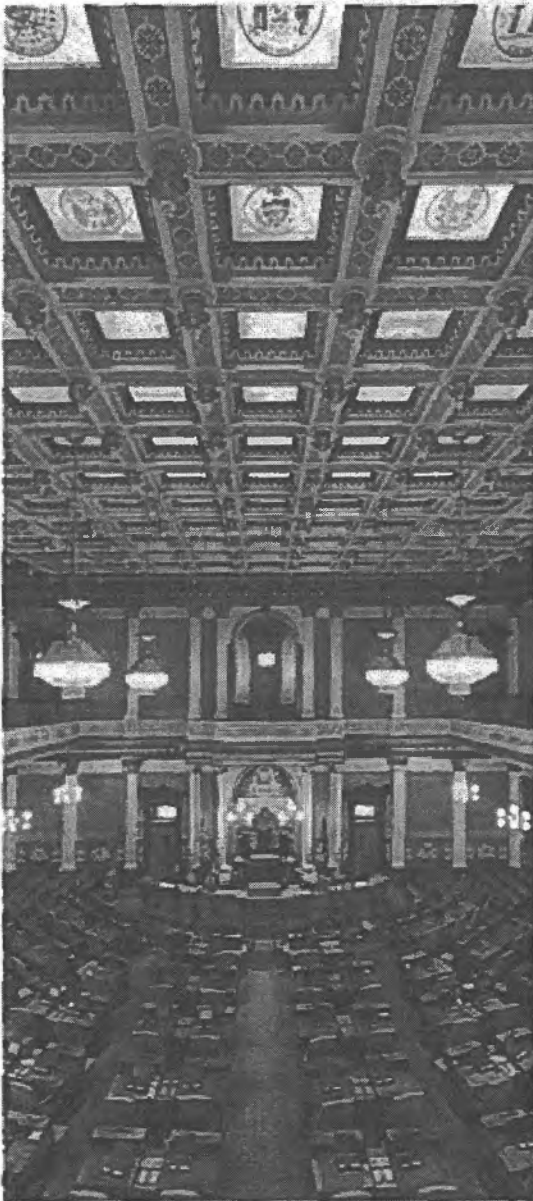
We are approaching a crossroads. One path leads to the escalating power of an irresponsible centralized government, ultimately resulting in the financial ruin of generations of Americans. The other path leads to the restoration of liberty and an American renaissance.

Which will you choose?

Article V, U.S. Constitution

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states,

or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.



A story from the Convention of 1787:
 "On September 15, as the Convention was reviewing the revisions made by the Committee of Style, George Mason expressed opposition to the provisions limiting the power to propose amendments to Congress. According to the Convention records, Mason thought that "no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case." In response, Gouverneur Morris and Elbridge Gerry made a motion to amend the article to reintroduce language requiring that a convention be called when two-thirds of the States applied for an amendment.

30 Harvard Journal of Law and Public Policy 1005, 1007 (2007).

How Our Proposal Differs from Other Article V Plans

We believe our strategy gives us an almost-certain chance of success.

Two goals separate our plan from all other Article V efforts:

1. We want to call a convention for a particular *subject* rather than a particular *amendment*. Instead of calling a convention for a balanced budget amendment (though we are entirely supportive of such an amendment), we want to call a convention for the purpose of limiting the power and jurisdiction of the federal government.
2. We believe the grassroots is the key to calling a successful convention. The goal is to build a political operation in a minimum of 40 states, getting 100 people to volunteer in at least 75% of the state legislative district (that's 3,000 districts). We believe this is very realistic. Through the support of the American people this project will succeed.

Our Solution is Big Enough to Solve the Problem

Rather than calling a convention for a specific amendment, Citizens for Self-Governance (CSG) has launched the Convention of States Project to urge state legislatures to properly use Article V to call a convention for a particular subject—reducing the power of Washington, D.C. It is important to note that a convention for an individual amendment (e.g. a Balanced Budget Amendment) would be limited to that single idea. Requiring a balanced budget is a great idea that CSG fully supports. Congress, however, could

comply with a Balanced Budget Amendment by simply raising taxes. We need spending restraints as well. We need restraints on taxation. We need prohibitions against improper federal regulation. We need to stop unfunded mandates.

No current Article V proposal has been able to reach the 34 state applications needed to call a Convention of States. There is not enough momentum behind any one amendment. Ideally, the Convention of States Project allows all these Article V efforts to combine, giving them the collective force necessary to call a convention.

Once called, the delegates will be able to debate and impose a complete package of restraints on the misuse of power by all branches of the federal government. This is what our plan will do. It would allow ALL amendments germane to “reducing the power of the federal government” to be considered.

What Sort of Amendments Could be Passed?

The following are examples of amendment topics that could be proposed at a convention of states:

- A balanced budget amendment
- Reducing federal spending power (fixing the General Welfare Clause)
- Reducing federal regulatory power (fixing the Commerce Clause)

- A prohibition of using international treaties and law to govern the domestic law of the United States
- A limitation on using Executive Orders and federal regulations to enact laws (since the Congress is supposed to be the exclusive agency to enact laws)
- Imposing real checks and balances on the Supreme Court (such as term limits)
- Placing a limit on federal taxation

Of course, these are merely examples of what could be up for discussion. So long as a proposed amendment relates to limiting the power of the federal government, the Convention of States itself would determine which ideas deserve serious consideration, and it will take a majority of votes from the states to formally propose any amendments.

American citizens have become so frustrated with runaway federal power that they have begun discussing ideas like nullification and even secession. Such ideas are not only impractical; they could ultimately lead to a violent conflict. We need not turn to such dangerous alternatives. The Founders gave us a legitimate path to save our liberty by using our state governments to impose binding restraints on the federal government. We must use the power granted to the states in the Constitution.

“A convention of States needs to be called to ensure that we are able to debate and impose a complete package of restraints on the misuse of power by all branches of the federal government.”

Our Political Plan to Call a Convention of States

The Grassroots

The leadership of the COS Project believes the success of a Convention of States depends directly on the American citizens. Our plan is not only simple, it is *realistic*:

- We will build viable political operation that is active in at least 40 states.
- These 40 states have approximately 4000 state house districts. Our goal is to have a viable political operation in at least 3000 of these districts.
- We will have 3000 district captains who will organize at least 100 people in each district to contact their state legislators to support a convention of states, and turn out at least 25 people per district at legislative hearings.

Legislators must know that our grassroots team will have their backs if they support a Convention of States. A widespread grassroots organization has

been missing from the Article V movement. CSG's President, Mark Meckler, was the co-founder of the Tea Party Patriots—one of the largest tea party groups in the country. Michael Farris is the founder of the Home School Legal Defense Association. As such, he brings with him over 30 years of grassroots leadership and activism in all 50 states. Eric O'Keefe was the lead organizer for the term limits movement that resulted in 23 states passing ballot initiatives to that effect. We are rapidly building not only a staff for this project, but networking with like-minded coalition members across America.

The strategic advantage of a fresh start on the application process is that we will be building current grassroots operations in all of the states needed to ratify any proposed amendments, and have them all addressed at one convention. If one of the existing proposals (such as the Balanced Budget applications) achieved 34 valid

applications, CSG certainly would support it as well.

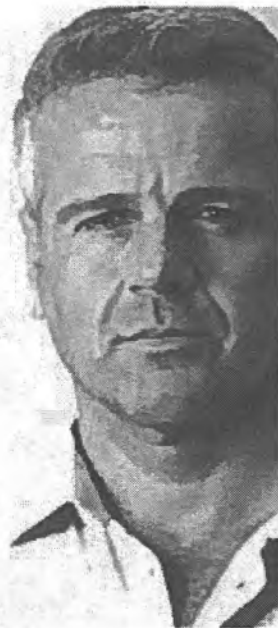
Unfortunately, the BBA plan relies on applications that were enacted ten, twenty, and thirty years ago. The grassroots organizations that achieved those victories are long gone. Starting fresh insures that we have current political operations in all the states necessary to actually ratify our proposed amendments.

Starting fresh also allows us to avoid any legal difficulties that may arise during the "aggregation" process. Applications must deal with the same issue in order for them to be counted towards the necessary 34 (or, in order for them to be "aggregated"). Many of the BBA applications, for example, are sufficiently different that they may be subject to legal challenge when the time comes to determine which states are included in the count. It is unlikely all BBA applications currently pending will be successfully aggregated. We will be proceeding with a unified application using the same operative language in all states.

Thus, there is both a legal advantage (clear aggregation) and a political advantage (current grassroots networking) to a fresh start on the application process. Moreover, we will have a greater ability to protect our liberty by addressing the full scope of the problems of Washington, D.C., in a Convention of States.

This unique strategy combined with strong grassroots support will guarantee the success of this project.

Only one question remains. Will you help?



The success of a Convention of States depends directly on the American citizens.

Why a Convention of States is the Safest Alternative to Preserve Our Liberty

The most common objection to an Article V convention envisions a doomsday scenario in which delegates disregard the purpose of the convention, rewrite the Constitution, and change the entire American system of government. This has been called the "runaway convention" theory, and it is based on fear and misinformation.

Here are the facts:

1. **There is a clear, strong single-subject precedent that would almost certainly be declared binding in the event of a court challenge.** There have been over 400 applications from state legislatures for an Article V convention in the history of the Republic. No such convention has ever been called because there has never been an application from two-thirds of the states for a single subject. In addition to this, there is a huge amount of historical precedent that limits interstate conventions to a particular subject. (See Professor Robert G. Natelson's handbook here: www.alec.org/publications/article-v-handbook/). Also see his essay on page 21.
2. **Ratification of any proposed amendment requires the approval of 38 states.** It only takes 13 states to vote "No" to defeat any proposed amendment. The chances of 38 state legislatures approving a rogue amendment are effectively zero.
3. **Improper changes to the process can be legally challenged by state legislators.** The Supreme Court has

held that Congress acted unconstitutionally when it changed the rules of the process in midstream. See, *Idaho v. Freeman*, 529 F.Supp. 1107 (D.C. Idaho 1981) (vacated on the ground of mootness.) CSG's Senior Fellow for Constitutional Studies, Michael Farris, was lead counsel for Washington state legislators in that litigation.

4. **There is absolutely no historical precedent for a runaway convention.** Many opponents of a Convention of States make the historically false allegation that our Constitution was adopted as the result of an illegal runaway convention. Such an argument was invented by the enemies of the Constitution and is unsupported by historical fact. The truth is that the new process for adopting the Constitution was unanimously approved by both the Congress and all thirteen states as required by the Articles of Confederation. (See "Was the Constitution Illegally Adopted?" by Michael Farris on page 17).

Thus, there are multiple lines of defense against an amendment that departs from the original subject: (1) A majority of states at the Convention would almost certainly vote such a proposal to be out of order; (2) If such an amendment was proposed, a proper legal challenge would certainly be filed and has a good likelihood of success; (3) It is highly probable that at least 13 states would defeat any such proposed amendment; (4) It is a historical fallacy to argue that we have an

established precedent of Conventions changing the rules illegally. (See Appendix, "A Response to the Runaway Scenario" for a detailed argument.)

American citizens must evaluate the relative safety of two choices. Should we allow our runaway federal government to continue to abuse the Constitution and the rights of the people, with the vague hope that someday Washington, D.C., will see the light and relinquish power? Or should we call a Convention of States, trusting one of the many lines of defense will stop any misuse of power?

At the end of the day, we must trust either Congress or the states. Recent history makes that an easy choice. Washington, D.C., is clearly the greatest danger to our liberty.

We believe the choice is clear. A Convention of States is the safest path to preserve self-government and liberty.

"At the end of the day, we must trust either Congress or the States. Recent history makes that an easy choice. Washington, D.C., is clearly the greatest danger to our liberty."



“The convention for proposing amendments is called to propose solutions to discrete, pre-assigned problems.” “When two-thirds of the states apply on a given subject, Congress must call the convention.”

We Know How a Convention of States Would Operate

There are some who claim we know nothing about how a Convention of States would function. They say that no precedent exists for such a convention, and it should be avoided due to all the unknowns. The historical record requires us to disagree with these assertions. It tells us how a Convention of States would operate. Interstate conventions were common during the Founding era, and the rules and procedures for such conventions were widely accepted. (For more on this historical precedent see Natelson’s article on page 21.) According to Professor Rob Natelson, leading expert on the Article V process, we know that:

- The “convention for proposing amendments” was consciously modeled on federal conventions held during the century leading up to the Constitutional Convention, when states or colonies met together on average about every 40 months.

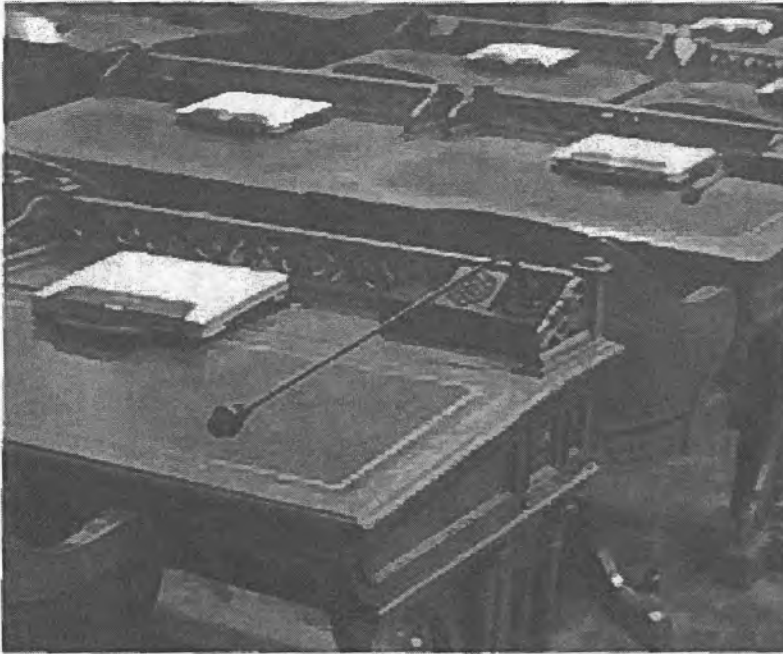
These were meetings of separate governments, and their protocols were based on international practice. Those protocols were well established and are inherent in Article V.

- Each federal convention has been called to address one or more discrete, prescribed problems. A convention “call” cannot determine how many delegates (“commissioners”) each state sends or how they are chosen. That is a matter for each state legislature to decide.
- A convention for proposing amendments is a meeting of sovereign governments, and each state has one vote. Each state commissioner is empowered and instructed by his or her state legislature.
- As was true of earlier interstate gatherings, the convention for proposing amendments is called to

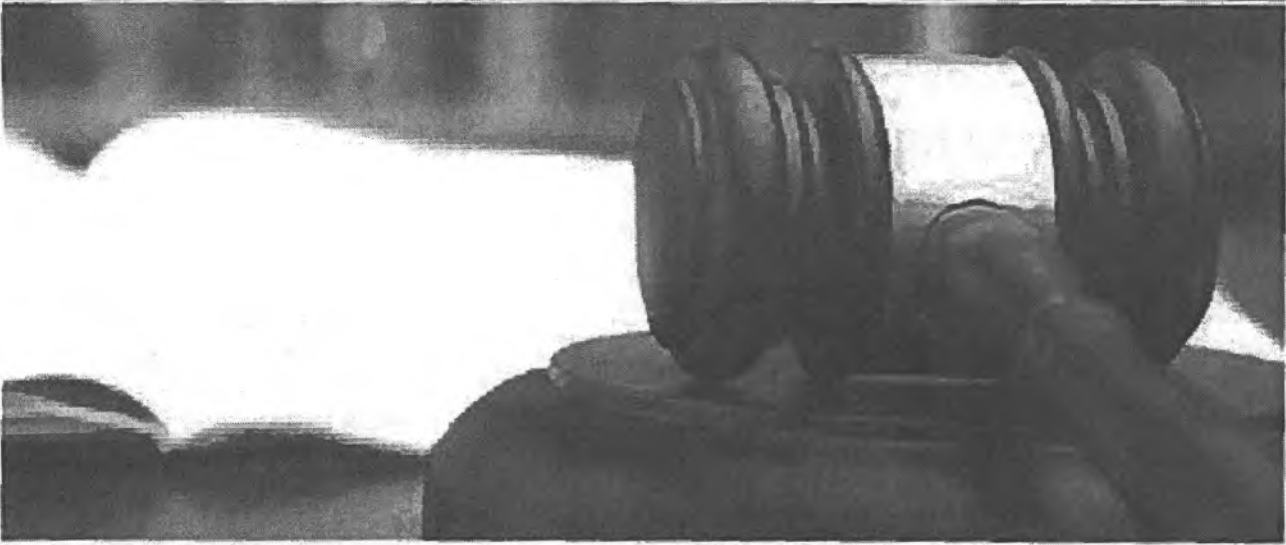
propose solutions to discrete, pre-assigned problems. There is no record of any federal convention significantly exceeding its pre-assigned mandate—not even the Constitutional Convention, despite anti-historical claims to the contrary.

- The state legislatures’ applications fix the subject-matter for a convention for proposing amendments. When two-thirds of the states apply on a given subject, Congress must call the convention. However, the congressional power is limited to setting the time and place of meeting.

The language in Article V does not specify any procedural rules because the Founders knew them so well. It would have seemed unnecessary to specify exactly how an interstate convention would operate. These rules are well-established and would be upheld by the courts today.



“The best plan is for state legislatures to adopt applications with operative language that is identical or as close to identical as possible.”



Action Steps for Legislators

To call a Convention of States, 34 state legislatures must pass applications on the same subject matter. Governors play no official role in this process. A simple majority rule applies unless the state legislature has adopted prior rules requiring a different number.

“Aggregation” is the most important issue for legislators to consider. Will

one state’s application be counted toward the required 34-vote majority, or will it be considered distinct from those of other states? The great variety of applications for a proposed Balanced Budget Amendment demonstrates the problem. Most legal scholars believe that a handful of the existing applications will be considered sufficiently distinct to deny aggregation status in a final count.

The best plan is for state legislatures to adopt applications with operative language that is identical or as close to identical as possible. CSG’s draft application is contained in the Appendix. This Model Application was drafted in consultation with a wide range of constitutional scholars, legislators, and citizen activists.

Action Steps for Citizens

Ultimately, the success of a Convention of States depends on the citizens of the United States. The grassroots will be the engine that drives this project. If Americans are willing to sacrifice their time and energy, there is still a chance to halt the tyrannical abuses of the federal government.

In each state, we will appoint three state-wide volunteer leaders: the State Director, Legislative Liaison, and Coalitions Director. These individuals will organize the movement across the state, coordinating volunteers, connecting with state legislators, and building the grassroots network.

In each state legislative district, a District Captain will be appointed to coordinate and mobilize volunteers in their district.

There are a number of ways volunteers will be able to be involved in helping move the project forward:

- Recruiting friends, family, neighbors and co-workers to join the effort.
- Writing letters, making calls, and/or visiting state legislator's offices to encourage them to support a Convention of States.
- Attending legislative hearings to show support for a Convention of States.

- Working on campaigns to elect candidates who support the cause.
- Organizing and speaking at events in your area as a representative for COS.

For more information about leadership job descriptions and volunteer opportunities visit www.conventionofstates.com.

The Founders gave us the tools to curb the federal abuse of power. It's time we stand up and use them to preserve liberty—not only for ourselves but for posterity.



"The grassroots will be the engine that drives this project."

Leadership of the Convention of States Project



Mark Meckler
Citizens for Self-Governance,
President

BA in English Literature, San Diego State University-California State University

J.D. from UOP McGeorge School of Law (with Honors)

Mark Meckler is the founder and President of Citizens for Self-Governance (CSG), an organization created to support grassroots activism in taking power from Washington, D.C., and returning it to its rightful owners, the citizens of the states. Meckler is widely regarded as one of the most effective and well-networked grassroots organizers in the nation and is regularly called on for political commentary in all forms of media.

Meckler is the co-founder and former National Coordinator for the Tea Party Patriots, the largest tea party organization in the nation. He left the organization in February 2009 and founded CSG to work more broadly on expanding the self-governance movement beyond the partisan divide.

As the President of CSG, Meckler makes sure that all projects, including Convention of States, are fully and appropriately funded, staffed and managed, with a focus on strict stewardship of donor dollars for maximum leverage and effect. Meckler is also personally involved in all media and public relations efforts.

Meckler and his wife Patty live in Northern California with their teenage children, where they share a love of outdoor recreation and equestrian activities.



Eric O'Keefe
Citizens for Self-Governance
Board of Directors

Eric O'Keefe has a twenty-five year history as an active strategist, board member and donor with organizations working to advance individual liberty, promote citizen

engagement and restore constitutional governance. O'Keefe helped found U.S. Term Limits in 1991 and, and in recent years, co-founded the Campaign for Primary Accountability, the Health Care Compact Alliance, and Citizens for Self-Governance. O'Keefe is also a founding board member of the Center for Competitive Politics and Citizens in Charge Foundation.

O'Keefe's book on the corruption of Congress, "Who Rules America," won praise from the late freedom advocate Milton Friedman.

O'Keefe also serves on the board of directors of the Wisconsin Club for Growth, which has been active defending Gov. Walker's agenda during legislative campaigns, recall campaigns, and legislative races.

When he is not engaged in political activities, O'Keefe is a private investor based in rural Wisconsin, where he and his wife raised three children.



Michael P. Farris
Citizens for Self-Governance —
Senior Fellow for Constitutional
Studies, head of Convention of
States Project

B.A. in Political Science, magna cum laude, Western Washington University (formerly Western Washington State College)

J.D., honors graduate, Gonzaga University School of Law LL.M. with Merit in Public International Law, University of London

Michael Farris is the Chancellor of Patrick Henry College and Chairman of the Home School Legal Defense Association. He was the founding president of each organization.

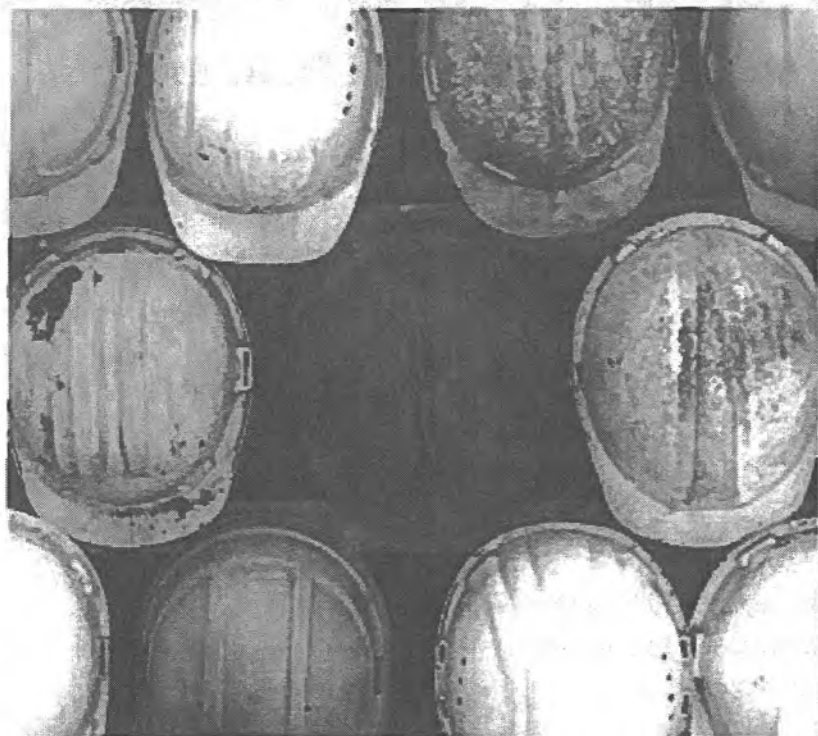
Farris is a constitutional appellate litigator who has served as lead counsel in the United States Supreme Court, eight federal circuit courts, and the appellate courts of thirteen states.

He has been a leader on Capitol Hill for over thirty years and is widely known for his leadership on homeschooling, religious freedom, and the preservation of American sovereignty.

A prolific author, Farris has been recognized with a number of awards including the Salvatori Prize for American Citizenship by the Heritage Foundation and as one of the "Top 100 Faces in Education for the 20th Century" by *Education Week* magazine.

Farris and his wife Vickie have 10 children and 17 grandchildren.

Appendix



We want you to have all of the information you need to get involved.

Please see the materials we've gathered for you to be the most informed person in your community.

It'll take hard work, but it's time to spread the word!

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Application for a Convention of the States Under Article V of the U.S. Constitution

Whereas, the Founders of our Constitution empowered State Legislators to be guardians of liberty against future abuses of power by the federal government, and

Whereas, the federal government has created a crushing national debt through improper and imprudent spending, and

Whereas, the federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and

Whereas, the federal government has ceased to live under a proper interpretation of the Constitution of the United States, and

Whereas, it is the solemn duty of the States to protect the liberty of our people – particularly for the generations to come – to propose Amendments to the Constitution of the United States through a Convention of the States under Article V to place clear restraints on these and related abuses of power,

Be it therefore resolved by the legislature of the State of _____:

Section 1. The legislature of the State of _____ hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for Members of Congress.

Section 2. The secretary of state is hereby directed to transmit copies of this application to the President and Secretary of the United States Senate and to the Speaker and Clerk of the United States House of Representatives, and copies to the members of the said Senate and House of Representatives from this State; also to transmit copies hereof to the presiding officers of each of the legislative houses in the several States, requesting their cooperation.

Section 3. This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject.

The Convention of States
is a project of



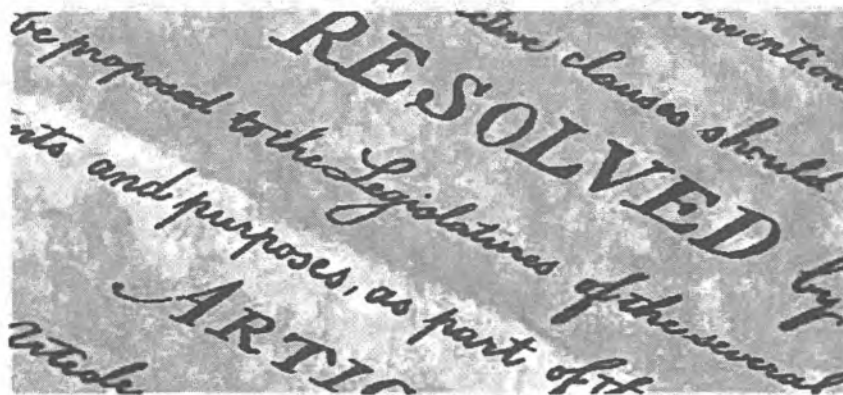
CITIZENS FOR
SELF-GOVERNANCE

Was the Constitution Illegally Adopted?

Michael Farris, JD, LL.M.

Chancellor, Patrick Henry College

Senior Fellow for Constitutional Studies, Citizens for Self-Governance



We can't walk boldly into our future, without first understanding our history.

From the time the Constitutional Convention concluded until today, there has been a contentious allegation that it was a runaway convention and that the Constitution was illegally adopted. For example, historian Joseph Ellis, in his recent bestseller *Founding Brothers*, repeats the following charges against the Constitutional Convention:

Over the subsequent two centuries critics of the Constitutional Convention have called attention to several of its more unseemly features: the convention was extralegal, since its explicit mandate was to revise the Articles of Confederation, not replace them; ...the machinery for ratification did not require the unanimous consent dictated by the Articles themselves. There is truth in each of these allegations.¹

These two charges are serious because they suggest that under the law existing at the time, the Constitution was actually illegally adopted. These two allegations can be summarized as follows: (1) a new document was proposed rather than mere changes to the Articles of Confederation as

specified in the call of the convention; and (2) the new Constitution allowed for ratification by only nine states whereas the Articles of Confederation required all thirteen states to approve any changes before they became effective.

On the surface, these two accusations are plausible. Indeed, the essentially unanimous view of historians is that the second of these charges is true. It should be noted, however, that most of these same historians believe that the end of saving the Republic justified the means of violating the Articles' rules concerning the amendment process.

However, a fresh look at historical documents and clearly established legal principles shows that both of these attacks on the integrity of the Constitution are in error.

How we got the Constitution:

A procedural review

At the request of Virginia, the Annapolis Convention convened with only five states in attendance. The convention had been called solely for

the purpose of considering changes to the Articles of Confederation relative to the regulation of commerce. The delegates quickly concluded that a second convention needed to be called with broader authority and with more states in attendance. On September 11, 1786, the delegates adopted this resolution:

Under this impression, Your Commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the [U]nion, if the States, by whom they have been respectively delegated, would themselves concur, and use their endeavours to procure the concurrence of the other States, in the appointment of Commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the

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Was the Constitution Illegally Adopted? *Continued from page 17*

exigencies of the Union; and to report such an Act for that purpose to the United States in Congress assembled, as when agreed to, by them, and afterwards confirmed by the Legislatures of every State, will effectually provide for the same.

On February 21, 1787, Congress responded by voting to authorize a convention in Philadelphia under these terms:

Resolved that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union.

The authorization for the convention was for the "sole and express purpose of revising the Articles of Confederation." But, as is obvious, the Constitutional Convention recommended an entirely new document—or was it?

No one would suggest that the Constitutional Convention had violated the scope of its authority if it had recommended two or three modest changes in the text of the Articles but also added a recommendation that the name of the document be changed to "The Constitution of the United States."

Thus, the mere fact there was a name change does not make the work of the convention illegal.

In fact, it is normal legislative practice to change the names of existing laws. Moreover, it is a recognized legal principle that the title of a law is no part of the body of the law. Thus, changing the name is of no legal consequence.

There were no limits placed on the authority of the convention to make amendments. It could recommend one change or a thousand.

Additionally, some matters of substance did not change from the Articles of Confederation to the Constitution.

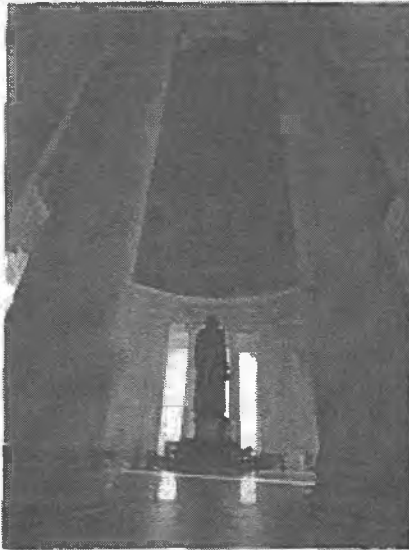
- Article I of the Articles of Confederation named the nation the United States of America. This did not change in the Constitution.
- Article II asserted that the states retained all power not specifically delegated. This was not changed, as was made evident by numerous declarations to this effect by the various state ratification documents. Moreover, the Tenth Amendment was later added to make this clear.
- Article III said that the states formed a mutual defense compact. The operation of the military changed under the Constitution, but the duty of defense of the whole nation did not change.
- Article IV had a provision that people moving from state to state had to be treated as citizens in the new states when they arrived—a provision that appears in Article IV, Section 2, of the Constitution with only modest changes in wording. This is sufficient to demonstrate that indeed the Constitution was a series

of recommended amendments to the Articles of Confederation. Many additional phrases and concepts, including the General Welfare Clause, were carried over from the Articles to the Constitution. So it is simply not true to assert that its content was "an entirely new document."

To be sure, the proposed amendments were presented as a package deal to be voted up or down, rather than as a series of individual amendments. But there was nothing in the document that created the Philadelphia Convention that prevented the convention from recommending the proposed amendments be approved en masse. In fact, no credible politician would have ever thought it wise to propose twenty or thirty amendments to be considered by Congress on a one-by-one basis. Any recommended changes would necessarily require a series of political compromises to reach a balance. It simply made common political sense that the amendments would be submitted as a single package deal. And there is nothing at all in the call of the convention that would suggest such an approach was improper.

Remember the resolution from Congress gave the Constitutional Convention the charge to make recommendations to the Articles and then to submit its recommendations to Congress and then the states.

After the convention completed its work, on September 17, 1787, the delegates officially transmitted the proposed Constitution to Congress, which was then meeting in New York. At this point, the Constitution was nothing more than a mere recommendation. Until Congress and the state legislatures acted, no ratification action was possible.



History tells the story.

The Constitution was legally adopted.

Now, let's move on to getting our nation back to the greatness the Founders originally envisioned.

On September 28, 1787, eleven days after receiving the recommendation from the Philadelphia Convention, Congress voted to approve the submitted recommendation. The official language read as follows:

Resolved Unanimously that the said Report with the resolutions and letter accompanying the same be transmitted to the several legislatures in Order to be submitted to a convention of Delegates chosen in each state by the people thereof in conformity to the resolves of the Convention made and provided in that case.

Note that Congress was the agency that had said the convention was called "for the sole and express purpose of revising the Articles of Confederation." And this same Congress *unanimously* approved the proposed Constitution and sent it on to the states. If the convention had indeed exceeded its authority, then Congress was the body with the legal authority and the clear opportunity to say, "We reject this proposal because this document violated your authority."

Thus, by examining the content of the document as well as the unanimous

approval of Congress, it is clear the Constitution was an appropriate, albeit substantial, amendment to the Articles of Confederation.

This brings us to the second charge levied by critics to prove the Constitution was illegally adopted: the fact that the Constitution was to be ratified by just nine states instead of the unanimous vote of thirteen states required by the Articles of Confederation.

It is misleading to focus on the number of states required for ratification, because there was actually a more important change in the process. Under the Articles of Confederation, proposed amendments were to be sent to the state legislatures. Under the Constitution, they were to be ratified by state conventions. Therefore, before we can even consider the switch from thirteen states to nine, we have to ask: how was the switch made from ratification by legislatures to ratification by conventions?

If things were going to be done properly under the Articles of Confederation, then all thirteen states would have to approve of this *change in process* before the Constitution

could be legally adopted by this new method. Remember the new method had two components: (1) ratification by conventions, and (2) ratification by nine states only.

Let us once again look at the language from Congress that approved the work of the Constitutional Convention.

Resolved Unanimously that the said Report with the resolutions and letter accompanying the same be transmitted to the several legislatures in Order to be submitted to a convention of Delegates chosen in each state by the people thereof in conformity to the resolves of the Convention made and provided in that case.

Congress did not send the Constitution to the state conventions. The report was "transmitted to the several legislatures" (emphasis mine). The legislatures had to act, if they agreed, to authorize the election of delegates "in conformity to the resolves of the Convention." This last clause meant the states were being asked to approve this new process that authorized the election of delegates to a ratification convention and nine ratifications would be sufficient. Both matters were clearly specified in the "resolves of the Convention."

Thus, before any state could submit the proposed Constitution to a ratification convention, its state legislature had to approve this new process. If all thirteen state legislatures in fact approved this change in process, then the Articles of Confederation would be fully satisfied.

This analysis looks at ratification as a two-step process:

1. The state *legislatures* approved the new process.

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Was the Constitution Illegally Adopted? *Continued from page 19*

2. The state ratification conventions approved the new Constitution.

As long as all thirteen state legislatures approved the change in process, then it would be perfectly legal under the Articles for nine state conventions to ratify the Constitution. However, it is very important to note that without the approval for the change in process by the legislatures, it would not be legal to submit the Constitution to state conventions no matter how many ratifications were required for approval.

Eleven states held ratification conventions and approved the Constitution between December 17, 1787, and July 26, 1788. The government under the Constitution went into effect on March 4, 1789. It is self-evident that the legislatures of each of these states voted to approve the new process, since these conventions required prior legislative approval.

However, we must also consider North Carolina and Rhode Island, which did not ratify the Constitution before it was put in operation. If North Carolina and Rhode Island had failed to approve or had rejected this *change in process*, then the critics would be right—the Constitution would have been adopted contrary to the rules of the Articles of Confederation requiring unanimity among the states.

But the North Carolina *legislature* clearly approved this change in process. The legislature authorized the election of delegates for this express purpose. On August 2, 1788, the North Carolina convention tabled any further consideration of the Constitution by a vote of 183 to 83. The convention delegates attached a number of recommended amendments they

wanted to see adopted by a second general convention before ratification. This was a tacit rejection of the Constitution as written. But this rejection by the *convention* has no bearing on the action of the *legislature* that had previously approved the change in the process.

An unconventional convention

This leaves Rhode Island. It is generally thought Rhode Island simply ignored the entire process until after the new government under the Constitution had already begun operation. And if this were true, then the second charge against the Constitution (that it did not properly follow the amendment process under the Articles of Confederation) would be true.

However, in February 1788, the legislature of Rhode Island adopted a resolution submitting the Constitution of the United States to a vote of all the people of the state.² In effect, this act appointed all the people of the entire state as delegates to the ratification convention. The people were to assemble on the fourth Monday of March in “conventions” in each town. These Rhode Island ratification conventions were different from those in any other state, but nothing in the text of the transmittal from Congress prohibited Rhode Island from adopting this format for a ratification convention. These town conventions were held on March 24, 1789, and the Constitution was overwhelmingly rejected (2,708 to 237). The defeat was more lopsided than it might have been, since most federalists boycotted the meetings.

But this rejection by the Rhode Island *convention* does not detract from the

fact that the Rhode Island *legislature* approved the process that had been suggested by the Philadelphia Convention and had been officially approved by Congress. Without this approval by the legislature, the town conventions could have never been held.

Therefore, the Articles of Confederation were fully satisfied. Before the Constitution was agreed to, Congress and all thirteen state legislatures approved a new process for changing the Articles of Confederation. By the unanimous action of thirteen state legislatures, ratification conventions were convened—an explicit approval of the new process that included the transfer of decision making from legislatures to conventions and changed the required number of approvals from thirteen to nine. Both of these accusations against the Constitution are disproved by a careful examination of the multiple steps in the process. The Constitutional Convention did not exceed its authority by incorporating all of its proposed amendments into a single document with a new name—as is proven by the unanimous acceptance of the report by the very agency that called the convention into session. Moreover, Congress and all thirteen state legislatures approved the new ratification process as required by the Articles.

The Constitution of the United States was legally adopted.

Endnotes

¹ Joseph J. Ellis, *Founding Brothers: The Revolutionary Generation* (New York: Alfred A. Knopf, 2000), 8.

² The resolution adopted by the Rhode Island legislature is printed in the March 8, 1788, edition of the *Providence Gazette and Country Journal*, no. 1262, p. 2, col. 2–3.

[The following is an excerpt from Professor Robert G. Natelson's *Florida Law Review* article titled below. For brevity all cites have been removed. It can be downloaded in full at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2044296.

With his permission we have highlighted his historical precedent for a Convention of States.]

Founding-Era Conventions and the Meaning of the Constitution's "Convention For Proposing Amendments"

Professor Robert G. Natelson

The Independence Institute; Montana Policy Institute

April 22, 2012

65 Fla. L. Rev. 615 (2013)

Overview Of Prior American Experience With Conventions [...]

A. Conventions Before the Constitution

The Founders understood a political "convention" to be an assembly, other than a legislature, designed to undertake prescribed governmental functions. The convention was a familiar and approved device: several generations of Englishmen and Americans had resorted to them. In

1660 a "convention Parliament" had recalled the Stuart line, in the person of Charles II, to the throne of England. A 1689 convention Parliament had adopted the English Bill of Rights, declared the throne vacant, and invited William and Mary to fill it. Also in 1689, Americans resorted to at least four conventions in three different colonies as mechanisms to replace unpopular colonial governments, and in 1719 they held yet another.

During the run-up to Independence,

conventions within particular colonies issued protests, operated as legislatures when the de jure legislature had been dissolved, and removed British officials and governed in their absence. After Independence, conventions wrote several state constitutions.

Those state constitutions also resorted to conventions as elements of their amendment procedures. The Pennsylvania Constitution of 1776 and

Continued to page 22



The Founders understood a political "convention" to be an assembly, other than a legislature, designed to undertake prescribed governmental functions.

What does that mean for a modern Convention of States?

Founding-Era Conventions and the Meaning of the Constitution's "Convention For Proposing Amendments" *Continued from page 21*

the Vermont Constitution of 1786 both authorized amendments conventions limited as to subjects by a "council of censors." The Massachusetts Constitution of 1780 provided for amendment by convention. The Georgia Constitution of 1777 required the legislature to call a convention to draft constitutional amendments whose gist had been prescribed by a majority of counties.

Conventions within individual colonies or states represented the people, towns, or counties. Another sort of "convention" was a gathering of three or more American governments under protocols modeled on international diplomatic practice. These multi-government conventions were comprised of delegations from each participating government, including, on some occasions, Indian tribes. Before Independence, such gatherings often were called "congresses," because "congress" was an established term for a gathering of sovereignties. After Independence, they were more often called "conventions," presumably to avoid confusion with the Continental and Confederation Congresses. But both before and after Independence the terms could be employed interchangeably.

Multi-government congresses or conventions were particularly common in the Northeast, perhaps because governments in that region had a history of working together. In 1643 the four colonies of Massachusetts, Plymouth Colony, Connecticut, and New Haven formed the United Colonies of New England. Essentially a joint standing committee of colonial legislatures, this association was not always active, but

endured at least formally until 1684. In 1695, the Crown created the Dominion of New England, a unified government imposed on New England, New York, and New Jersey. The Dominion proved unpopular, and in 1689 colonial conventions swept it away; nevertheless, northeastern governments continued to confer together. Many of these meetings were conclaves of colonial governors, usually conferring on issues of defense against French Canada and her allied Indian tribes, rather than conventions of diplomatic delegations. An example from outside the Northeast was the meeting of five governors held at Alexandria, Virginia in 1755. Many others, however, were full-dress conventions among commissioners appointed from three or more colonies. These meetings were usually, but not always, held under the sanction of royal authorities.

To be specific: Three colonies met at Boston in 1689 to discuss defense issues. The following year, the acting New York lieutenant governor called, without royal sanction, a defense convention of most of the continental colonies to meet in New York City. The meeting was held on May 1, 1690, with New York, Massachusetts Bay, Connecticut, and Plymouth colonies in attendance. A similar gathering occurred in 1693 in New York, this time under Crown auspices. Other defense conventions were held in New York City in 1704, Boston in 1711, Albany in 1744 and 1745, and New York City in 1747. The New England colonies held yet another in 1757.

In addition to defense conventions, there were conventions serving as diplomatic meetings among colonies

and sovereign Indian tribes, particularly the Iroquois. There were at least ten such conclaves between 1677 and 1768 involving three or more colonies. Those ten included gatherings in 1677, 1689, 1694, and 1722 at Albany, New York; in 1744 at Lancaster, Pennsylvania; in 1745, 1746, 1751, and 1754 at Albany; and in 1768 at Fort Stanwix (Rome), New York.

The assembly at Lancaster became one of the more noted. Participants included Pennsylvania, Maryland, Virginia, and several Indian tribes. The proceedings lasted from June 22 to July 4, 1744, and produced the Treaty of Lancaster. Even more important, however, was the seven-colony Albany Congress of 1754, whose proceedings are discussed in Part IV.A.

The most famous inter-colonial conventions were the Stamp Act Congress of 1765 and the First Continental Congress of 1774, discussed in Parts IV.B and IV.C. As for the Second Continental Congress (1775-81), participants might initially have thought of it as a convention, but it is not so classified here because it really served as a continuing legislature.

After the colonies had declared themselves independent states, they continued to gather in conventions. All of these meetings were called to address specific issues of common concern. Northeastern states convened twice in Providence, Rhode Island—in December, 1776 and January, 1777, and again in 1781. Other conventions of northeastern states met in Springfield, Massachusetts (1777); New Haven, Connecticut (1778);

Hartford, Connecticut (1779 and 1780); and Boston, Massachusetts (1780). Conventions that included states outside the Northeast included those at York Town, Pennsylvania (1777), Philadelphia, Pennsylvania (1780 and, of course, 1787), and Annapolis, Maryland (1786). There also were abortive calls for multi-state conventions in Fredericksburg, Virginia, Charleston, South Carolina, and elsewhere.

Thus, the Constitutional Convention of 1787—far from being the unique event it is often assumed to be—was but one in a long line of similar gatherings.

Conclusion: What Prior Conventions Tell Us About The Convention For Proposing Amendments

As noted above, Founding-Era customs assist us in understanding the attributes and procedures inherent in a “convention for proposing amendments,” and the powers and prerogatives of the actors in the process. This Conclusion draws on the historical material collected

above, together with the brief constitutional text, to outline those attributes and procedures.

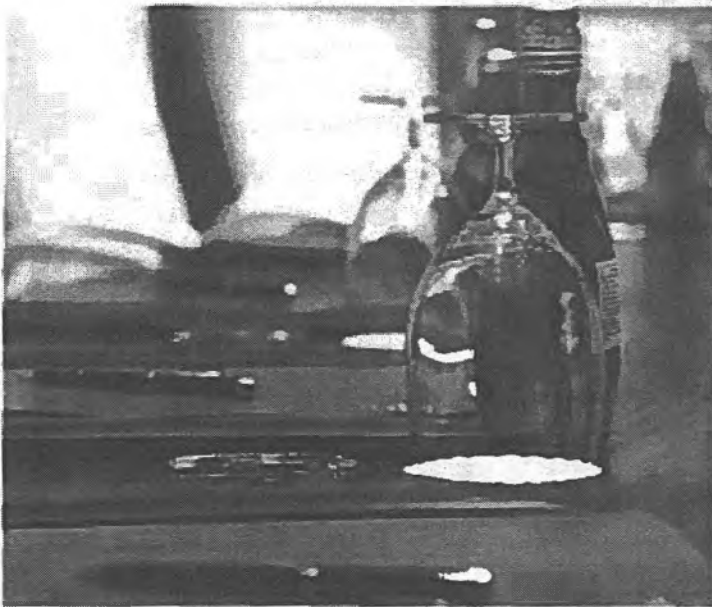
The previous record of American conventions made it clear that a convention for proposing amendments was to be, like its immediate predecessors, an inter-governmental diplomatic gathering—a “convention of the states” or “convention of committees.” It was to be a forum in which state delegations could meet on the basis of sovereign equality. Its purpose is to put the “states in convention assembled” on equal footing with Congress in proposing amendments.

Founding-Era practice informs us that Article V applications and calls may ask for either a plenipotentiary convention or one limited to pre-defined subjects. Most American multi-government gatherings had been limited to one or more subjects, and the ratification-era record shows affirmatively that the Founders expected that most conventions for proposing amendments would be similarly limited. Founding-Era practice informs us also that commissioners at an amendments

convention were to operate under agency law and remain within the limits of their commissions. Neither the record of Founding Era conventions nor the ratification debates offer significant support for the modern claim that a convention cannot be limited.

The only Founding Era efforts to insert in a convention call prescriptions other than time, place, and subject-matter were abortive. When Massachusetts presumed to set the voting rules while calling a third Hartford convention, two of the four states invited refused to participate. In the few instances in which convention calls suggested how sovereign governments should select their commissioners, some of those governments disregarded the suggestions, but their commissioners were seated anyway. This record therefore suggests that a convention call, as the Constitution uses the term, may not include legally-binding terms other than time, place, and subject. However, the occasional Founding-Era practice of making calls and applications conditional and of rescinding them suggests that

Continued to page 24



History and the constitutional text inform us that a convention for proposing amendments is, like its direct predecessors, a multi-government proposing convention.

Founding-Era Conventions and the Meaning of the Constitution's "Convention For Proposing Amendments" *Continued from page 23*

Article V applications and calls also may be made conditional or rescinded. In accordance with Founding-Era practice, states are free to honor or reject calls, as they choose.

Universal pre-constitutional practice tells us that states may select, commission, instruct, and pay their delegates as they wish, and may alter their instructions and recall them. Although the states may define the subject and instruct their commissioners to vote in a certain way, the convention as a whole makes its own rules, elects its own officers, establishes and staffs its own committees, and sets its own time of adjournment.

All Founding-Era conventions were deliberative bodies. This was true to a certain extent even of conventions whose formal power was limited to an up-or-down vote. When Rhode Island lawmakers submitted the Constitution to a statewide referendum in town meetings rather than to a ratifying convention, a principal criticism was that the referendum lacked the deliberative qualities of the convention. Critics contended that a ratifying convention, unlike a referendum, provided a central forum for a full hearing and debate and exchange of information among people from different locales. They further contended that the convention offered a way to supplement the affirmative or negative vote with non-binding recommendations for amendments.

Before and during the Founding Era, American multi-government conventions enjoyed even more deliberative freedom than ratifying

conventions—as, indeed, befits the dignity of a diplomatic gathering of sovereignties. No multi-government convention was limited to an up-or-down vote. Each was assigned discrete problems to work on, but within that sphere each enjoyed freedom to deliberate, advise, consult, confer, recommend, and propose. Multi-government conventions also could refuse to propose. Essentially, they served as task forces where delegates from different states could share information, debate, compare notes, and try to hammer out creative solutions to the problems posed to them.

History and the constitutional text inform us that a convention for proposing amendments is, like its direct predecessors, a multi-government proposing convention. This suggests that an amendments convention is deliberative in much the same way its predecessors were. This suggests further that when a legislature attempts in its application to compel the convention to merely vote up-or-down on prescribed language, it is not utilizing the application power in a valid way.

Prevailing convention practice during the Founding Era permitted a few procedural variations, and it is precisely in these areas that the text of Article V prescribes procedure. Specifically:

- During the Founding Era, multi-state conventions could be authorized merely to *propose* solutions for state approval, or, less commonly, to *resolve* issues; in the latter case each state “pledged its faith” to comply with the outcome. Article V clarifies

that an amendments convention only may propose. At the Constitutional Convention, the Framers rejected proffered language to create an amendments convention that could resolve.

- During the Founding Era, a proposing convention could be plenipotentiary or limited. Article V clarifies that neither the states nor Congress may call plenipotentiary conventions under Article V, because that Article authorizes only amendments to “this Constitution,” and, further, it proscribes certain amendments.
- During the Founding Era, an “application” for a multi-government convention could refer either to (1) a request from a state to Congress to call, or (2) the call itself. Article V clarifies that an application has only the former meaning.
- During the Founding Era a call could come from one or more states, from Congress, or from another convention. Article V prescribes that the call for an amendments convention comes only from Congress, but is mandatory when two thirds of the states have submitted similar applications.
- During the Founding Era, one proposing convention (that of 1787) had attempted to specify how the states were to review its recommendations. Article V clarifies that an amendments convention does not have this power.

Thus do text and history fit together to guide us in the use of Article V.

USA

OKLAHOMA MISSISSIPPI INDIANA
WASHINGTON ILLINOIS WYOMING
SOUTH CAROLINA OREGON TEXAS
CONNECTICUT ARKANSAS NEW HAMPSHIRE KENTUCKY
MICHIGAN ALASKA MASSACHUSETTS CALIFORNIA IOWA
MINNESOTA MARYLAND SOUTH DAKOTA GEORGIA OHIO

CONVENTION OF STATES

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1 156053-1:n:12/17/2013:FC/th LRS2013-4437

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MAKING APPLICATION FOR A CONVENTION OF THE STATES
UNDER ARTICLE V OF THE UNITED STATES CONSTITUTION TO PROPOSE
CERTAIN AMENDMENTS RELATING TO THE FEDERAL GOVERNMENT.

WHEREAS, the Founders of our Constitution empowered
state legislators to be guardians of liberty against future
abuses of power by the federal government; and

WHEREAS, the federal government has created a
crushing national debt through improper and imprudent
spending; and

WHEREAS, the federal government has invaded the
legitimate roles of the states through the manipulative
process of federal mandates, most of which are unfunded to a
great extent; and

WHEREAS, the federal government has ceased to live
under a proper interpretation of the Constitution of the
United States; and

WHEREAS, it is the solemn duty of the states to
protect the liberty of our people, particularly for the
generations to come, to propose amendments to the Constitution

1 of the United States through a Convention of the States under
2 Article V to place clear restraints on these and related
3 abuses of power; now therefore,

4 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
5 HOUSES THEREOF CONCURRING, That the Legislature of the State
6 of Alabama hereby applies to Congress, under the provisions of
7 Article V of the Constitution of the United States, for the
8 calling of a convention of the states limited to proposing
9 amendments that impose fiscal restraints on the federal
10 government, limit the power and jurisdiction of the federal
11 government, and limit the terms of office for its officials.

12 BE IT FURTHER RESOLVED, That the Secretary of State
13 is hereby directed to transmit copies of this application to
14 the President and Secretary of the United States Senate and to
15 the Speaker and Clerk of the United States House of
16 Representatives, and to the members of the Senate and House of
17 Representatives of the United States Congress from this state;
18 and to also transmit copies hereof to the presiding officers
19 of each of the legislative houses in the several states,
20 requesting their cooperation.

21 BE IT FURTHER RESOLVED, That this application
22 constitutes a continuing application in accordance with
23 Article V of the Constitution of the United States until the
24 Legislatures of at least two-thirds of the several states have
25 made applications on the same subject.

1 HJR49
2 156053-1
3 By Representatives Johnson (K), Henry, Long, Moore (B),
4 Collins, Wallace, Harper, Beckman, Ball, McCutcheon, Clouse,
5 Buttram, Roberts, Greer, Williams (D), Lee, Butler, Nordgren,
6 Shedd, Fincher, Gaston, Carns, Tuggle, Drake, Patterson,
7 Farley, Johnson (W), Baughn, Chesteen, Faust, Brown, Davis
8 and Weaver
9 RFD: Rules
10 First Read: 16-JAN-14

REFERENCE TITLE: convention; amendments; balanced federal budget

State of Arizona

House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HCR 2017

Introduced by

Representatives Thorpe, Barton, Borrelli, Boyer, Kwasman, Livingston, Orr,
Smith, Stevens, Townsend, Senator Barto: Representatives Gowan, Olson,
Senators Crandell, Melvin, Shooter, Ward

A CONCURRENT RESOLUTION

APPLYING TO THE CONGRESS OF THE UNITED STATES TO CALL A CONVENTION FOR
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO REQUIRE
THAT THE CONGRESS ADOPT A BALANCED FEDERAL BUDGET.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:
3 1. That, pursuant to Article V of the Constitution of the United
4 States, the Legislature of the State of Arizona formally applies to the
5 Congress of the United States to call a convention for the purpose of
6 proposing an amendment to the Constitution of the United States requiring
7 that in the absence of a national emergency, the total of all federal
8 appropriations made by the Congress for any fiscal year may not exceed the
9 total of all estimated federal revenue for that fiscal year, together with
10 any related and appropriate fiscal restraints.
11 2. That this application is to be considered as covering the same
12 subject matter as the currently outstanding balanced budget applications from
13 Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Indiana, Iowa,
14 Kansas, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New
15 Mexico, North Carolina, Pennsylvania and Texas, and shall be aggregated with
16 those applications for the purpose of attaining the two-thirds of the states
17 necessary to require the calling of a convention, but may not be aggregated
18 with any applications on any other subjects.
19 3. That this application constitutes a continuing application in
20 accordance with Article V of the Constitution of the United States until at
21 least two-thirds of the legislatures of the several states have made
22 application on the same subject, and supersedes all previous applications by
23 this Legislature on the same subject.
24 4. That the Secretary of State of the State of Arizona transmit a copy
25 of this Resolution to the President and Secretary of the United States
26 Senate, the Speaker and Clerk of the United States House of Representatives,
27 each Member of Congress from the State of Arizona and the presiding officers
28 of each house of the several state legislatures.

Senate Resolution 736

By: Senators Staton of the 18th, Shafer of the 48th, Chance of the 16th, Miller of the 49th, Hill of the 32nd and others

A RESOLUTION

1 Applying for a convention of the states under Article V of the United States Constitution; and
2 for other purposes.

3 WHEREAS, the founders of the Constitution of the United States empowered state
4 legislators to be guardians of liberty against future abuses of power by the federal
5 government; and

6 WHEREAS, the federal government has created a crushing national debt through improper
7 and imprudent spending; and

8 WHEREAS, the federal government has invaded the legitimate roles of the states through
9 the manipulative process of federal mandates, most of which are unfunded to a great extent;
10 and

11 WHEREAS, the federal government has ceased to live under a proper interpretation of the
12 Constitution of the United States; and

13 WHEREAS, it is the solemn duty of the states to protect the liberty of our people,
14 particularly for the generations to come, by proposing amendments to the Constitution of the
15 United States through a convention of the states under Article V of the United States
16 Constitution to place clear restraints on these and related abuses of power.

17 NOW, THEREFORE, BE IT RESOLVED BY THE ~~GENERAL ASSEMBLY OF~~
18 ~~GEORGIA~~ that the General Assembly of the State of Georgia hereby applies to Congress,
19 under the provisions of Article V of the Constitution of the United States, for the calling of
20 a convention of the states limited to proposing amendments to the United States Constitution
21 that impose fiscal restraints on the federal government, limit the power and jurisdiction of
22 the federal government, and limit the terms of office for its officials and for members of
23 Congress.

24 BE IT FURTHER RESOLVED that the Secretary of the Senate is hereby directed to transmit
25 copies of this application to the President and Secretary of the United States Senate and to
26 the Speaker and Clerk of the United States House of Representatives, to transmit copies to
27 the members of the United States Senate and United States House of Representatives from
28 this state, and to transmit copies hereof to the presiding officers of each of the legislative
29 houses in the several states, requesting their cooperation.

30 BE IT FURTHER RESOLVED that this application constitutes a continuing application in
31 accordance with Article V of the Constitution of the United States until the legislatures of
32 at least two-thirds of the several states have made applications on the same subject.

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House Memorial

1
2 A memorial to the Congress of the United States,
3 applying to Congress to call a convention for the sole
4 purpose of proposing amendments to the Constitution of
5 the United States which impose fiscal restraints on
6 the Federal Government, limit the power and
7 jurisdiction of the Federal Government, and limit the
8 terms of office for federal officials and members of
9 Congress.

10
11 WHEREAS, the Founders of the United States of America
12 provided in the Constitution of the United States for a limited
13 Federal Government of express enumerated powers, and

14 WHEREAS, the Tenth Amendment to the Constitution
15 specifically provides that all powers not delegated to the
16 Federal Government nor prohibited by the Constitution to the
17 states are reserved to the states, respectively, or to the
18 people, and

19 WHEREAS, for many decades, this balance of power was
20 generally respected and followed by those occupying positions of
21 authority in the Federal Government, and

22 WHEREAS, as federal power has expanded over the past
23 decades, federal spending has exponentially increased to the
24 extent that it is now decidedly out of balance in relation to
25 actual revenues or when comparing the ratio of accumulated

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hm0381-00

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26 public debt to the nation's gross domestic product, and

27 WHEREAS, in 2013, the Federal Government's accumulated
 28 public debt exceeded \$17 trillion, which is more than double
 29 that in 2006, and

30 WHEREAS, projections of federal deficit spending in the
 31 coming decades demonstrate that this power shift and its fiscal
 32 impacts are continuing and pose serious threats to the freedom
 33 and financial security of the American people and future
 34 generations, and

35 WHEREAS, the Founders of the United States of America
 36 provided a procedure in Article V of the Constitution to amend
 37 the Constitution on application of two-thirds of the several
 38 states, calling a convention for proposing amendments that will
 39 be valid to all intents and purposes if ratified by the
 40 legislatures of three-fourths of the several states, or by
 41 conventions in three-fourths thereof, as one or the other mode
 42 of ratification may be proposed by Congress, and

43 WHEREAS, it is a fundamental duty of state legislatures to
 44 support, protect, and defend the liberty of the American people,
 45 including generations yet to come, by asserting their solemn
 46 duty and responsibility under the Constitution to call for a
 47 convention under Article V for proposing amendments to the
 48 Constitution to reverse and correct the ominous path that the
 49 country is now on and to restrain future expansions and abuses
 50 of federal power, NOW, THEREFORE,

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Be It Resolved by the Legislature of the State of Florida:

(1) That the Legislature of the State of Florida does hereby make application to Congress pursuant to Article V of the Constitution of the United States to call an Article V convention for the sole purpose of proposing amendments to the Constitution of the United States which:

(a) Impose fiscal restraints on the Federal Government.

(b) Limit the power and jurisdiction of the Federal Government.

(c) Limit the terms of office for federal officials and members of Congress.

(2) That these three proposed amendment categories are severable from one another and may be counted individually toward the required two-thirds number of applications made by the state legislatures for the calling of an Article V convention.

(3) That this memorial is revoked and withdrawn, nullified, and superseded to the same effect as if it had never been passed, and retroactive to the date of passage, if it is used for the purpose of calling a convention or used in support of conducting a convention to amend the Constitution of the United States for any purpose other than imposing fiscal restraints on the Federal Government, limiting the power and

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76 | jurisdiction of the Federal Government, or limiting the terms of
 77 | office for federal officials and members of Congress.

78 | (4) That this application constitutes a continuing
 79 | application in accordance with Article V of the Constitution of
 80 | the United States until the legislatures of at least two-thirds
 81 | of the several states have made applications on one or more of
 82 | the three proposed amendment categories listed above.

83 | BE IT FURTHER RESOLVED that copies of this memorial be
 84 | dispatched to the President of the United States, to the
 85 | President of the United States Senate, to the Speaker of the
 86 | United States House of Representatives, and to each member of
 87 | the Florida delegation to the United States Congress.

By Senator Hays

11-00350A-14

2014476

Senate Memorial

A memorial to the Congress of the United States, applying to Congress to call a convention for the sole purpose of proposing amendments to the Constitution of the United States which impose fiscal restraints on the Federal Government, limit the power and jurisdiction of the Federal Government, and limit the terms of office for federal officials and members of Congress.

WHEREAS, the Founders of the United States of America provided in the Constitution of the United States for a limited Federal Government of express enumerated powers, and

WHEREAS, the Tenth Amendment to the Constitution specifically provides that all powers not delegated to the Federal Government nor prohibited by the Constitution to the states are reserved to the states, respectively, or to the people, and

WHEREAS, for many decades, this balance of power was generally respected and followed by those occupying positions of authority in the Federal Government, and

WHEREAS, as federal power has expanded over the past decades, federal spending has exponentially increased to the extent that it is now decidedly out of balance in relation to actual revenues or when comparing the ratio of accumulated public debt to the nation's gross domestic product, and

WHEREAS, in 2013, the Federal Government's accumulated public debt exceeded \$17 trillion, which is more than double that in 2006, and

11-00350A-14

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30 WHEREAS, projections of federal deficit spending in the
31 coming decades demonstrate that this power shift and its fiscal
32 impacts are continuing and pose serious threats to the freedom
33 and financial security of the American people and future
34 generations, and

35 WHEREAS, the Founders of the United States of America
36 provided a procedure in Article V of the Constitution to amend
37 the Constitution on application of two-thirds of the several
38 states, calling a convention for proposing amendments that will
39 be valid to all intents and purposes if ratified by the
40 legislatures of three-fourths of the several states, or by
41 conventions in three-fourths thereof, as one or the other mode
42 of ratification may be proposed by Congress, and

43 WHEREAS, it is a fundamental duty of state legislatures to
44 support, protect, and defend the liberty of the American people,
45 including generations yet to come, by asserting their solemn
46 duty and responsibility under the Constitution to call for a
47 convention under Article V for proposing amendments to the
48 Constitution to reverse and correct the ominous path that the
49 country is now on and to restrain future expansions and abuses
50 of federal power, NOW, THEREFORE,

51
52 Be It Resolved by the Legislature of the State of Florida:

53
54 (1) That the Legislature of the State of Florida does
55 hereby make application to Congress pursuant to Article V of the
56 Constitution of the United States to call an Article V
57 convention for the sole purpose of proposing amendments to the
58 Constitution of the United States which:

11-00350A-14

2014476

59 (a) Impose fiscal restraints on the Federal Government.

60 (b) Limit the power and jurisdiction of the Federal
61 Government.

62 (c) Limit the terms of office for federal officials and
63 members of Congress.

64 (2) That these three proposed amendment categories are
65 severable from one another and may be counted individually
66 toward the required two-thirds number of applications made by
67 the state legislatures for the calling of an Article V
68 convention.

69 (3) That this memorial is revoked and withdrawn, nullified,
70 and superseded to the same effect as if it had never been
71 passed, and retroactive to the date of passage, if it is used
72 for the purpose of calling a convention or used in support of
73 conducting a convention to amend the Constitution of the United
74 States for any purpose other than imposing fiscal restraints on
75 the Federal Government, limiting the power and jurisdiction of
76 the Federal Government, or limiting the terms of office for
77 federal officials and members of Congress.

78 (4) That this application constitutes a continuing
79 application in accordance with Article V of the Constitution of
80 the United States until the legislatures of at least two-thirds
81 of the several states have made applications on one or more of
82 the three proposed amendment categories listed above.

83 BE IT FURTHER RESOLVED that copies of this memorial be
84 dispatched to the President of the United States, to the
85 President of the United States Senate, to the Speaker of the
86 United States House of Representatives, and to each member of
87 the Florida delegation to the United States Congress.

SCR120.....by STATE AFFAIRS
CONSTITUTIONAL CONVENTION - Stating findings of the Legislature and
repealing, rescinding, canceling, nullifying and superseding all
applications made by the Legislature of the State of Idaho to call a
constitutional convention to propose amendments to the Constitution of the
United States.

02/15 Senate intro - 1st rdg - to printing
02/16 Rpt prt - to St Aff

Bill Text

SCR120

|||| LEGISLATURE OF THE STATE OF IDAHO ||||
Fifty-fifth Legislature First Regular Session - 1999

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 120

BY STATE AFFAIRS COMMITTEE

1 A CONCURRENT RESOLUTION
2 STATING FINDINGS OF THE LEGISLATURE, REPEALING, RESCINDING, CANCELING, VOIDING
3 AND SUPERSEDING ANY AND ALL EXTANT APPLICATIONS BY THE LEGISLATURE OF THE
4 STATE OF IDAHO HERETOFORE MADE DURING ANY SESSION THEREOF TO THE CONGRESS
5 OF THE UNITED STATES OF AMERICA TO CALL A CONVENTION PURSUANT TO THE TERMS
6 OF ARTICLE V OF THE UNITED STATES CONSTITUTION FOR PROPOSING ONE OR MORE
7 AMENDMENTS TO THE CONSTITUTION AND URGING THE LEGISLATURES OF THE OTHER
8 STATES TO DO THE SAME AND DIRECTING COPIES OF THIS RESOLUTION BE SENT TO
9 SPECIFIED PERSONS.
10 Be It Resolved by the Legislature of the State of Idaho:
11 WHEREAS, the Legislature of the State of Idaho, acting with the best of
12 intentions, has, at various times, and during various sessions, previously
13 made applications to the Congress of the United States of America to call one
14 or more conventions to propose either a single amendment concerning a specific
15 subject or to call a general convention to propose an unspecified and unlim-
16 ited number of amendments to the United States Constitution, pursuant to the
17 provisions of Article V thereof; and
18 WHEREAS, former Justice of the United States of America Warren E. Burger,
19 former Associate Justice of the United States Supreme Court Arthur J. Goldberg
20 and other leading constitutional scholars agree that such a convention may
21 propose sweeping changes to the Constitution, any limitations or restrictions
22 purportedly imposed by the states in applying for such a convention or conven-
23 tions to the contrary notwithstanding, thereby creating an imminent peril to
24 the well-established rights of the citizens and the duties of various levels
25 of government; and
26 WHEREAS, the Constitution of the United States of America has been amended
27 many times in the history of this nation and may be amended many more times,
28 without the need to resort to a constitutional convention, and has been inter-
29 preted for more than two hundred years and has been found to be a sound docu-
30 ment which protects the lives and liberties of the citizens; and
31 WHEREAS, there is no need for, rather, there is great danger in, a new
32 Constitution or in opening the Constitution to sweeping changes, the adoption
33 of which would only create legal chaos in this nation and only begin the proc-
34 ess of another two centuries of litigation over its meaning and interpreta-
35 tion.

36 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session
37 of the Fifty-fifth Idaho Legislature, the Senate and the House of Representa-
38 tives concurring therein, that the Legislature does hereby repeal, rescind,
39 cancel, nullify, and supersede to the same effect as if they had never been
40 passed, any and all extant applications by the Legislature of the State of
41 Idaho to the Congress of the United States of America to call a convention to
42 propose amendments to the Constitution of the United States of America, pursu-
43 ant to the terms of Article V thereof, regardless of when or by which session
44 or sessions of the Idaho Legislature such applications were made and regard-

2

1 less of whether such applications were for a limited convention to propose one
2 or more amendments regarding one or more specific subjects and purposes or for
3 a general convention to propose an unlimited number of amendments upon an
4 unlimited number of subjects.

5 BE IT FURTHER RESOLVED that the following resolutions and memorials, be,
6 and the same are hereby specifically repealed, rescinded, canceled, nullified
7 and superseded: S.J.M. 2, 1901 Session of the Legislature; S.J.R. 2, 1927 Ses-
8 sion of the Legislature; H.C.R. 6, 1957 Session of the Legislature; S.J.M. 9,
9 1963 Session of the Legislature; H.J.M. 7, 1963 Session of the Legislature;
10 S.J.M. 1, 1965 Session of the Legislature; H.C.R. 7, 1979 Session of the Leg-
11 islature; and S.C.R. 132, 1980 Session of the Legislature.

12 BE IT FURTHER RESOLVED that the Legislature of the State of Idaho urges
13 the legislatures of each and every state which has applied to Congress to call
14 a convention for either a general or a limited constitutional convention, to
15 repeal and rescind such applications.

16 BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is
17 hereby authorized and directed to send copies of this Resolution to the Secre-
18 tary of State of each state in the Union, to the presiding officers of both
19 houses of the Legislatures of each state in the Union, to the President of the
20 United States Senate, to the Speaker of the United States House of Representa-
21 tives, to the members of the Congress of the United States representing the
22 State and people of Idaho, and the administrator of General Services, Washing-
23 ton, D.C.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 08657

Since Idaho became a state, the Legislature has, at various times and in various sessions, made application to the Congress of the United States to call one or more constitutional conventions. We have been able to identify eight such calls in years ranging from 1901 to 1980. It is possible that other applications have been made that we have not identified. Each of those applications identified are non-expiring.

Even though each of the identified applications has been for a specific purpose, it is the opinion of some constitutional scholars that these applications can be accumulated and used to call a constitutional convention based on the call of 34 states of which Idaho could be named as one of those states. It is further the opinion of these scholars, that once a constitutional convention is called it is not possible to limit the business of the convention to any single matter and would present the opportunity to wreak havoc with the Constitution of the United States or even to write a completely new constitution.

The purpose of this resolution is to repeal, rescind, cancel, nullify and supersede any and all previous applications - eight applications are specifically named - to prevent the use of Idaho's name in calling for any constitutional convention.

FISCAL NOTE

None

CONTACT: Sen. Grant R. Ipsen
208-342-4470 home
208-332-1327 Senate office
208-342-0261 fax

STATEMENT OF PURPOSE/ FISCAL NOTE SCR120

Senate Concurrent Resolution No. 1613

By Senator Pilcher-Cook

3-25

1 A CONCURRENT RESOLUTION making application to the congress of
2 the United States to call a convention for the purpose of proposing an
3 amendment to the constitution of the United States with respect to
4 states' rights.
5

6 *Be it resolved by the Senate of the ~~State of Kansas~~, the House of*
7 *Representatives concurring therein:* That pursuant to article V of the
8 constitution of the United States, the legislature of the state of Kansas
9 hereby makes application to the congress of the United States for the
10 calling of a constitutional convention for the sole purpose of proposing
11 the following article as an amendment to the constitution of the United
12 States:

13 "ARTICLE _____

14 "Section 1. The states and the citizens thereof have the sole and
15 exclusive authority to regulate directly, and to regulate indirectly through
16 taxes, the following subjects: Education; the time, place and manner of
17 elections; marriage and law relating to the family; firearms, ammunition
18 and their use; land use; the management of wildlife, game and fisheries;
19 health care; and all forms of insurance.

20 "Sec. 2. Section 1 is not an exclusive list of subjects that the states
21 may regulate. With respect to all other subjects, other than those
22 enumerated in sections 9 and 10 of article I, the states may regulate those
23 subjects. Congress may not exercise its enumerated powers to impliedly
24 preempt or otherwise impliedly displace state laws. The preemption or
25 displacement of such state laws may only occur if an act of congress
26 expressly and unmistakably states its intention to preempt or displace
27 state law."; and

28 *Be it further resolved:* That this application constitutes a continuing
29 application in accordance with article V of the constitution of the United
30 States until at least two-thirds of the several states shall have made
31 similar applications to the congress of the United States; and

32 *Be it further resolved:* That the secretary of state is hereby directed to
33 transmit copies of this resolution to the President of the United States, the
34 Secretary of the Senate of the United States, the Clerk of the House of
35 Representatives of the United States, each member of the Kansas
36 delegation in the United States Congress and to the legislatures of all

1 other states of the United States.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 539 Session of
2013

INTRODUCED BY COHEN, HARKINS, KIRKLAND, KORTZ, MAHONEY, MUNDY,
O'BRIEN, PARKER, ROEBUCK, SCHLOSSBERG AND THOMAS,
NOVEMBER 6, 2013

REFERRED TO COMMITTEE ON STATE GOVERNMENT, NOVEMBER 6, 2013

A RESOLUTION

1 Petitioning the Congress of the United States, pursuant to
2 Article V of the Constitution of the United States, to call
3 for a Convention of the States to restore free and fair
4 elections in the United States.

5 WHEREAS, George Washington, the first President of the United
6 States, stated that the "basis of our political systems is the
7 right of the people to make and to alter their Constitutions of
8 Government"; and

9 WHEREAS, James Madison noted in Federalist No. 52 that the
10 framers of the Constitution of the United States intended that
11 the Congress of the United States should be "dependent on the
12 people alone"; and

13 WHEREAS, That dependency has evolved from a dependency on the
14 people alone to a dependency on those who spend excessively in
15 elections, through campaigns or third-party groups; and

16 WHEREAS, The United States Supreme Court ruling in *Citizens*
17 *United v. Federal Election Commission*, 130 S.Ct.876 (2010),
18 removed restrictions on amounts of independent political

1 spending; and

2 WHEREAS, This removal of restrictions has resulted in the
3 unjust influence of powerful economic forces supplanting the
4 will of the people by undermining our ability to choose our
5 political leadership, write our own laws and determine the fate
6 of our Commonwealth; and

7 WHEREAS, Article V of the Constitution of the United States
8 requires the Congress of the United States to call a Convention
9 of the States for proposing amendments upon application of two-
10 thirds of the legislatures of the states for the purpose of
11 proposing amendments to the Constitution of the United States;
12 and

13 WHEREAS, The Commonwealth of Pennsylvania sees the need for a
14 convention to propose amendments in order to address concerns
15 such as those raised by the decision of the *United States*
16 *Supreme Court in Citizens United v. Federal Election Commission*
17 and related cases and events, including those occurring long
18 before or after or for a substantially similar purpose, and
19 desires that said convention should be so limited; and

20 WHEREAS, The Commonwealth of Pennsylvania desires that the
21 delegates to the Convention of the States be comprised equally
22 from individuals currently elected to state and local office, or
23 be selected by election in each Congressional district for the
24 purpose of serving as delegates, though all individuals elected
25 or appointed to Federal office, now or in the past, shall be
26 prohibited from serving as delegates to the convention, and
27 intends to retain the ability to restrict or expand the power of
28 its delegates within the limits expressed above; and

29 WHEREAS, The Commonwealth of Pennsylvania intends this
30 resolution to be a continuing application considered together

1 with applications calling for a Convention of the States
2 currently pending in the 188th Massachusetts legislature as
3 S.1727 and H.3190, the 2013-2014 Vermont legislature as SJR 27
4 and the 2013-2014 California legislature as AJR 1, and all other
5 passed, pending and future applications, the aforementioned
6 concerns notwithstanding until such time as two-thirds of the
7 states have applied for a Convention of the States and the
8 convention is convened by Congress; therefore be it

9 RESOLVED, That the House of Representatives of the
10 Commonwealth of Pennsylvania hereby petition Congress, pursuant
11 to Article V of the Constitution of the United States, to call a
12 Convention of the States for the purpose of proposing amendments
13 to the Constitution of the United States as soon as two-thirds
14 of the states have applied for a convention; and be it further

15 RESOLVED, That the Chief Clerk of the House of
16 Representatives of the Commonwealth of Pennsylvania transmit
17 copies of this resolution to the President and Vice President of
18 the United States, the President Pro Tempore of the United
19 States Senate, the Minority Leader of the United States Senate,
20 the Speaker of the United States House of Representatives, the
21 Minority Leader of the United States House of Representatives,
22 the members of Congress from Pennsylvania, the Governor of each
23 state and to the presiding officers of each legislative body of
24 each of the states, requesting the cooperation of the states in
25 issuing an application compelling Congress to call a Convention
26 of the States for proposing amendments pursuant to Article V of
27 the Constitution of the United States.

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A JOINT RESOLUTION

TO PROVIDE FOR A CONSTITUTIONAL STUDY COMMISSION TO PRODUCE REFERENCE MATERIAL FOR DELEGATES TO A CONSTITUTIONAL CONVENTION, AND TO PROVIDE FOR A CONSTITUTIONAL CONVENTION AND THE ELECTION, DUTIES, AND RESPONSIBILITIES OF THE DELEGATES TO THE CONVENTION.

Be it enacted by the General Assembly of the State of South Carolina

SECTION 1. (A) A majority of the qualified electors of this State having voted in the affirmative to call for a constitutional convention to revise and modernize the 1895 South Carolina Constitution and pursuant to Section 3, Article XVI of the 1895 South Carolina Constitution, relating to calling a constitutional convention, the General Assembly does hereby provide for calling the convention.

(B) There is established the South Carolina Constitutional Study Commission. The study commission shall be comprised of the Chief Justice of the Supreme Court, who shall serve as chair, the Governor, the President Pro-Tempore of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, the Attorney General, the Dean of the University of South Carolina School of Law, and the Dean of the Charleston School of Law.

(C) The study commission must prepare a comprehensive written analysis of current economic, social, and other conditions and likely future economic, social, and other developments within the State. The analysis should include a comparison of how the current constitutional framework applies to those conditions and future developments, how other state constitutions address those conditions and future developments, how they impact or are likely

1 to impact the fundamental rights of individuals and the manner in
2 which the government may be structured to best meet the
3 challenges and opportunities presented by those conditions and
4 future developments, and make recommendations for the new
5 constitution. The commission must also propose rules of
6 procedure to govern the activities of the convention. The complete
7 analysis must be submitted to all delegates and otherwise made
8 publicly available no later than sixty days prior to the
9 constitutional convention convened pursuant to Section 3.

10 (D) The study commission must meet as soon as practicable
11 after the effective date of this Joint Resolution to organize and
12 begin the issue analysis required by subsection (C).

13 (E) Commissioners are entitled to such mileage, subsistence,
14 and per diem as authorized by law for members of boards,
15 committees, and commissions while in the performance of the
16 duties for which appointed. These expenses shall be paid from the
17 general fund of the State on warrants duly signed by the chairman
18 of the commission and payable by the State Treasurer from the
19 funds appropriated to the judiciary specifically for this purpose.

20 (F) The study commission may use clerical and professional
21 employees of the General Assembly, the Attorney General, or any
22 other state agency who must be made available to the study
23 commission. The study commission may also employ or retain
24 other professional staff, upon the study commission's
25 determination of the necessity for other staff. The costs and
26 expenses of the study commission must be funded in the judiciary
27 appropriation of the annual general appropriations act.

28

29 SECTION 2. (A) A convention to reexamine and revise the
30 South Carolina Constitution of 1895 must convene no later than
31 July 1, 2016, in the chambers of the House of Representatives in
32 Columbia. The convention shall continue in session at times and
33 places determined by the convention's presiding officer until, by
34 careful revision and amendment of the 1895 Constitution, it shall
35 frame and adopt a revised constitution for this State, provided that
36 the convention must adjourn no later than December 31, 2018,
37 unless a longer term is approved by the General Assembly.

38 (1) The convention delegates shall judge the returns and
39 qualifications of its members, and a majority of delegates shall
40 constitute a quorum to do business; but a smaller number may
41 adjourn from day to day, and may compel the attendance of absent
42 members, in such manner and under such penalties as may be
43 provided in the convention's rules of procedure.

1 (2) The convention shall choose its own officers, determine its
2 rules of procedure, punish its members for disorderly behavior,
3 and, with the concurrence of two thirds, expel a delegate, but not a
4 second time for the same cause. The Chief Justice of the Supreme
5 Court shall preside until officers are elected. Jefferson's Manual
6 of Parliamentary Practice shall govern the convention's activities
7 prior to rules of procedure being adopted.

8 (B) There will be one hundred twenty-four delegates to the
9 convention. One delegate must be elected by popular vote of the
10 qualified electors residing in each district of the House of
11 Representatives in a non-partisan election during a special election
12 held on the first Tuesday following the first Monday in November
13 2015. Delegates must possess the same qualifications as members
14 of the state House of Representatives. In the event of a vacancy,
15 the presiding officer of the convention shall issue a writ of election
16 to fill the vacancy pursuant to Section 7-13-190 of the 1976 Code.
17 Delegates and candidates for delegate are subject to Chapter 13,
18 Title 8 of the 1976 Code, the State Ethics Act. The provisions of
19 Chapter 17, Title 2 of the 1976 Code are applicable to the
20 convention.

21 (C) The final draft constitution adopted by the convention must
22 be transmitted to the Chief Justice of the Supreme Court and the
23 State Election Commission. The chief justice shall make the draft
24 available to the general public. The State Election Commission
25 shall place upon the ballot of the next general election the question
26 of whether to adopt the draft constitution adopted by the
27 convention. To adopt the constitution, a majority of qualified
28 electors must vote in favor of adoption. Copies of the draft
29 constitution must be made available at polling places in the manner
30 required in Section 7-13-180 of the 1976 Code.

31
32 SECTION 3. This joint resolution takes effect upon approval by
33 the Governor.

34 -----XX-----
35

14100514D

SENATE BILL NO. 105
Offered January 8, 2014
Prefiled December 27, 2013

A BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348, 30-349, and 30-350, relating to a convention to amend the United States Constitution; delegates.

Patron—Ruff

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348, 30-349, and 30-350, as follows:

CHAPTER 55.

DELEGATES TO A CONVENTION TO AMEND THE UNITED STATES CONSTITUTION.

§ 30-348. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Application" means a joint resolution passed by the General Assembly or an application made by the legislature of any other state calling for a convention and relied on by the United States Congress in calling a convention.

"Convention" means a convention for proposing amendments to the United States Constitution called for by the states pursuant to Article V of the United States Constitution.

"Delegate" means an individual who is appointed by the General Assembly to represent the Commonwealth at a convention.

§ 30-349. Appointment of delegates.

A. Any time a convention is called pursuant to Article V of the United States Constitution, the General Assembly or an official or entity designated by the General Assembly shall appoint the number of delegates allocated to represent the Commonwealth at the convention and an equal number of alternate delegates to such convention. All delegates and alternate delegates shall be residents of the Commonwealth.

B. At any time, the General Assembly may by joint resolution recall delegates or alternate delegates or appoint new delegates or alternate delegates.

C. As a condition to appointment as a delegate or alternate delegate, each delegate and alternate delegate shall, by oath or affirmation, agree to abide by the instructions for participation in the convention established by joint resolution of the General Assembly.

§ 30-350. Duties of delegates attending the convention; penalty.

A. At the time delegates and alternate delegates are appointed, the General Assembly shall by joint resolution provide instructions to the delegates regarding the scope of matters they may consider and vote on at the convention, including rules of procedure and proposed amendments. The General Assembly may amend the instructions by joint resolution prior to or during the course of the convention.

B. No delegate or alternate delegate shall vote on (i) a proposed amendment that varies from the exact text of the amendment contained in the application calling for the convention or (ii) a proposed amendment that is outside the scope of the permitted subject matter as defined in the instructions adopted by the General Assembly by joint resolution.

C. Any delegate casting or attempting to cast a vote in violation of this section shall be rendered ineligible to continue to serve as a delegate and shall be immediately removed from his office and replaced by an alternate delegate. Any vote cast in violation of this section is void.

D. Any delegate who knowingly and willfully violates this section is guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

SB105

1/22/14 17:47



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 105

(Patrons – Ruff; Delegate: Bell, Richard P.)

LD#: 14100514

Date: 12/2/2013

Topic: Delegates to a convention to amend the U.S. constitution

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposed legislation amends the *Code of Virginia* by adding §§ 30-348, 30-349 and 30-350. The proposal establishes the selection criteria and control of delegates selected for a convention to amend the U.S. constitution. Any convention delegate can be removed from office by joint resolution. The amendment requires that a delegate be immediately removed if he or she fails to abide by the instructions established by the General Assembly or votes or attempts to vote outside the instructions established by the General Assembly. Any delegate who knowingly and willfully commits a violation would be guilty of a Class 6 felony.

Article V of the United States Constitution allows two ways to amend the Constitution. First, amendments may be added after a vote of two-thirds of both the U.S. House of Representatives and the U.S. Senate followed by a ratification by three-fourths of the state legislatures. Second, the Constitution may be amended by a convention called for by two-thirds of the state legislatures. Any of the convention's proposed amendments must be ratified by three-fourths of the state legislatures. This proposal relates to the second method of amending the U.S. Constitution.

Analysis:

Currently in the *Code of Virginia*, there are no substantially similar statutes to the proposal; however, there are statutes related to misconduct by government officials and employees. According to the General District Court Case Management System (CMS) for fiscal years 2012 and 2013, no state officials were convicted of violating the State and Local Government Conflict of Interests Act, §§ 2.2-3100 — 2.2-3131. In addition, the same General District Court data indicate that there were no convictions under the General Assembly Conflicts of Interest Act, §§ 30-100 — 30-129, during this time period.

Impact of Proposed Legislation:

State adult correctional facilities. By adding a new felony offense relating to a convention to amend the U.S. Constitution, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the proposal would only be applicable if there is a Constitutional Convention proposed by the state legislatures. Given the process that would be necessary for a Constitutional Convention to occur, any potential impact associated with the proposal would likely occur beyond the six-year forecast window required by § 30-19.1:4.

Local adult correctional facilities. Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to have an impact on adult community corrections programs.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

convention01_0514

H. B. 3029

(By Delegates Overington, Butler, Householder, Cadle, Gearheart, Canterbury and Ambler)

[Introduced March 21, 2013; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend the Code of ~~West Virginia~~ 1931, as amended, be amended by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all relating to providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; definitions; delegate duties and responsibilities; and providing a felony criminal penalty for violation of a delegate's oath.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all to read as follows:

ARTICLE 11A. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

§3-11A-1. Conventions for proposing amendments to the Constitution __ of the United States; committees; delegates.

____(a) *Committee of Correspondence for Article V Conventions for Proposing Amendments --* The Legislature shall designate one or more legislative committees for purposes of communicating, exchanging information and otherwise engaging in discussion and dialogue with the several states and Congressional delegation regarding acts, resolutions and issues related to the Article V Convention rules, process, potential amendments, interstate compacts, developing common credentials and instructions for delegates and procedures for an Article V Convention for proposing amendments. It may vest this function in the Joint Committee on Government and Finance, in existing committees of each house, or in such other legislative committee as it may see fit to establish.

____(b) *Prohibiting Delegates from Attending a Convention for Proposing Amendments if Congress Mandates Proportional Representation --* Delegates from West Virginia may only be authorized to attend an Article V Convention for proposing amendments where each state has one equal vote.

§3-11A-2. Definitions.

____ For the purposes of this article:

____(a) "Article V Convention" means a "Convention for proposing Amendments" as expressly provided in Article V of the Constitution of the United States of America;

____(b) "Article V Application" means a Joint resolution passed by the Legislature on the same subject or containing the same proposed amendment text as thirty-three other sovereign states requiring Congress to call an Article V convention by setting the time and place;

____(c) "Delegate" or "alternate" means a person selected by the Legislature or any other method provided by law to represent the State of West Virginia at an Article V convention;

____(d) "Legislative Instructions" means instructions given by the State Legislature to

delegates and alternates before and during an Article V Convention; and

_____ (e) "Unauthorized amendment" means a proposed amendment that is outside the subject matter of the application, the call, the commission, or any Legislative Instructions.

§3-11A-3. Delegates duties and responsibilities.

_____ (a) Delegates from West Virginia to an Article V Convention may not vote to allow consideration of or vote to approve an unauthorized amendment for ratification to the United States of America Constitution.

_____ (b) Any delegate casting a vote to allow consideration or approval of an unauthorized amendment shall be immediately recalled by an official or committee authorized by a Resolution of the Legislature and replaced by an alternate.

_____ (c) Every candidate for delegate or alternate from West Virginia to the Article V Convention shall take the following oath:

"I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate or alternate to an Article V Convention, uphold the Constitution and laws of the United States of America and the State of West Virginia. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for ratification to the United States of America Constitution".

_____ (d) The Legislature or an official or committee authorized by a Resolution of the Legislature shall certify in writing to the Article V Convention the selection of delegates and alternates, the recall and replacement of a delegate with and alternate and the nullification of unauthorized votes cast by the delegate of West Virginia.

§3-11A-4. Violation of oath; criminal penalty.

_____ Any Delegate who violates the oath contained in this article is guilty of a felony and, upon conviction thereof shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year, or both fined and imprisoned.

NOTE: The purpose of this bill is to provide a procedure for West Virginia to select delegates to an Article V Convention for proposing amendments to the Constitution of the United States of America.

This article is new; therefore, it has been completely underscored.



2013 ASSEMBLY BILL 635

January 21, 2014 - Introduced by Representatives KAPENGA, CRAIG, SCHRAA, KRUG, KNUDSON, SANFELIPPO, KNODL, MURPHY, THIESFELDT, A. OTT, BALLWEG, T. LARSON, SPIROS, SKOWRONSKI, BIES and BERNIER, cosponsored by Senators FARROW and LEIBHAM. Referred to Committee on Campaigns and Elections.

1 **AN ACT to create** 13.176 of the statutes; **relating to:** appointing delegates for
2 a convention under Article V of the United States Constitution.

Analysis by the Legislative Reference Bureau

Under Article V of the United States Constitution, upon the application of the legislatures of at least two-thirds of the states, Congress must call a convention for the purpose of proposing amendments to the U.S. Constitution. Under this bill, if Congress calls such a convention, the legislature and the governor must appoint five delegates to attend the convention as representatives of this state.

Under the bill, if a delegate votes at the convention to consider or approve an unauthorized amendment, the delegate may be immediately dismissed by the approval of a majority of the other appointed delegates for this state and replaced with a new appointee. The bill defines an "unauthorized amendment" as an amendment that is outside the scope of the application or the call of the convention.

The bill also requires the legislature to create a joint committee of correspondence that is responsible for communications with delegates to the convention. The convention delegates from this state must direct all communications with the legislature to the committee, including the proposed adoption or modification of rules governing the convention. The delegates are to presume that the committee approves the proposed adoption or modification of such

ASSEMBLY BILL 635

rules, if the committee does not render a decision on the proposed adoption or modification of such rules within 48 hours of receiving notice from the delegates.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.176 of the statutes is created to read:

2 **13.176 Article V convention.** (1) In this section:

3 (a) "Article V application" means a joint resolution, as authorized under Article
4 V of the U.S. Constitution, adopted by both houses of the legislature applying to
5 Congress for an article V convention for proposing amendments.

6 (b) "Article V convention" means a convention called by Congress upon
7 application of the legislatures of at least two-thirds of the states for the purpose of
8 proposing amendments to the U.S. Constitution, as authorized by article V of the
9 U.S. Constitution.

10 (c) "Delegate" means an individual appointed under sub. (2) to represent the
11 state of Wisconsin at an Article V convention.

12 (d) "Unauthorized amendment" means a proposed amendment to the U.S.
13 Constitution that is outside of the scope of the subject matter of the article V
14 application or the call of the article V convention.

15 **(2)** (a) If, as a result of an article V application, Congress calls an article V
16 convention, the legislature and the governor shall appoint 5 delegates to attend the
17 convention as follows:

- 18 1. The speaker of the assembly shall appoint 2 members of the assembly.
19 2. The president of the senate shall appoint 2 members of the senate.
20 3. The governor shall appoint 1 member of either the assembly or the senate.

ASSEMBLY BILL 635

1 (b) Any vacancy in the delegation appointed under par. (a) shall be filled in the
2 manner provided under par. (a).

3 (c) The term for each delegate appointed under par. (a) begins with the call of
4 the Article V convention and ends on the day of the final adjournment of the
5 convention.

6 (3) (a) No delegate appointed under sub. (2) may vote at an article V convention
7 to consider or approve an unauthorized amendment.

8 (b) Any delegate voting in violation of par. (a) may be immediately dismissed
9 as a delegate by the approval of a majority of the other delegates appointed under
10 sub. (2). No more than one delegate at a time may be dismissed under this
11 paragraph. If a delegate is dismissed, another delegate may not be dismissed until
12 a new delegate has been appointed to replace the first dismissed delegate.

13 (c) The speaker of the assembly, president of the senate, and governor shall
14 each maintain a list of alternate appointees in case a delegate is dismissed as
15 provided under par. (b).

16 (4) The secretary of state shall certify in writing to the article V convention the
17 identity of the delegates appointed under sub. (2) or dismissed under sub. (3) (b) and
18 the filling of any delegation vacancy.

19 (5) After Congress calls for an Article V convention, the legislature shall create
20 a joint committee of correspondence responsible for communications with the
21 delegates to the convention. The delegates shall direct all communications with the
22 legislature to the joint committee of correspondence, including the proposed
23 adoption or modification of rules governing the convention, the language of any
24 proposed amendment under discussion, administrative matters, or anything else
25 requiring legislative guidance. If the joint committee of correspondence does not

ASSEMBLY BILL 635

1 render a decision on the proposed adoption or modification of rules governing the
2 convention within 48 hours of receiving notification from the delegates, the delegates
3 shall presume that the committee approves the proposed adoption or modification
4 of such rules.

5

(END)

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HOUSE JOINT RESOLUTION 2

51ST LEGISLATURE - ~~STATE OF NEW MEXICO~~ - SECOND SESSION, 2014

INTRODUCED BY

Yvette Herrell

A JOINT RESOLUTION

APPLYING FOR A CONVENTION OF STATES UNDER ARTICLE V OF THE
UNITED STATES CONSTITUTION.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

WHEREAS, the Founders of our Constitution empowered State
Legislators to be guardians of liberty against future abuses of
power by the federal government; and

WHEREAS, the federal government has created a crushing
national debt through improper and imprudent spending; and

WHEREAS, the federal government has invaded the legitimate
roles of the states through the manipulative process of federal
mandates, most of which are unfunded to a great extent; and

WHEREAS, the federal government has ceased to live under a
proper interpretation of the Constitution of the United States;
and

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underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
[bracketed material] = delete

1 WHEREAS, it is the solemn duty of the States to protect
2 the liberty of our people, particularly for the generations to
3 come, by preparing Amendments to the Constitution of the United
4 States through a Convention of the States under Article V to
5 place clear restraints on these and related abuses of power;

6 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
7 STATE OF NEW MEXICO that the legislature of New Mexico hereby
8 applies to Congress, under the provisions of Article V of the
9 Constitution of the United States, for the calling of a
10 convention of the states limited to proposing amendments to the
11 Constitution of the United States that impose fiscal restraints
12 on the federal government, limit the power and jurisdiction of
13 the federal government and limit the terms of office for its
14 officials and for Members of Congress; and

15 BE IT FURTHER RESOLVED that the New Mexico secretary of
16 state is hereby directed to transmit copies of this application
17 to the President and Secretary of the United States Senate and
18 to the Speaker and Clerk of the United States House of
19 Representatives, and copies to the members of the Senate and
20 House of Representatives from this State; also to transmit
21 copies to the presiding officers of each of the legislative
22 houses in the several States, requesting their cooperation; and

23 BE IT FURTHER RESOLVED that this application constitute a
24 continuing application in accordance with Article V of the
25 Constitution of the United States until the legislatures of at

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underscoring material = new
[~~bracketed material~~] = delete

1 least two-thirds of the several states have made applications
2 on the same subject.

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My name is Mike Coons from Lazy Mountain, Palmer area. I am speaking for myself and Citizen Initiatives.

Convention of States and Compact for America, along with Citizen Initiatives are all strong patriot organizations who have a valid concern about a run-a-away Congress and Judiciary. Thus we are all working toward the use of Article V of the US Constitution in a safe and consistent manner to propose amendment(s) which will strengthen our Constitution, nation and to stop the over-reach, mandates and Executive Orders that are rapidly approaching that of a dictatorship.

That said, I would be remiss in not pointing out our major difference with COS that appears in this resolution, that of subject, vs specific amendment. Article V is specific in "2/3rds of the several states, shall call a convention for proposing amendments. What is before you are "impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of federal government officials. In conversations with Don Brand, the intent of the resolution is to be able to propose multiple amendments off of each subject.

Citizen Initiatives major concern is that Congress will disallow this resolution because it is too general in nature.

I have sent to Representative Wilson and Keller documentation and e-mails on this matter along with a white paper outlining the pro's and con's of COS' methodology.

In closing, Citizen Initiatives and myself are for using Article V in a safe and clear manner and that will get a convention through Article V so that We the People can get our nation back and away from the precipitate of a dictatorship. We have specific calls for specific amendment that we tried to put forward this year, sadly not enough time. We will be putting forward our State Sovereignty and States Rights Amendment and Countermand Amendment for the 2015 session.

Mike Coons

Lazy Mountain

Application on the United States Congress Calling for the Sovereignty Amendment Convention

THE LEGISLATURE OF THE STATE OF Concurrent Resolution No. _____

(By Legislators) : _____; _____; _____; _____; _____;
_____; _____; _____; _____; _____;
_____; _____; _____; _____; _____; et al

Calling on the United States Congress and instructing Congress to convene the Sovereignty Amendment Convention under the authority reserved to State Legislatures in Article V of the United States Constitution.

WHEREAS, Article IV, Section 4 of the Constitution of the United States guarantees to every State a Republican form of government which gives each State equal standing when calling for Amendment Conventions. Article V of the Constitution of the United States reserves to the several States the right to call for a Federal Amendment Convention for the purpose of proposing Amendments to the United States Constitution when Congress, the Courts, or the Executive Branch refuse to address an egregious wrong suffered by the people; and

WHEREAS, The States alone have the authority to "define" and "limit" the agenda at an Article V Amendment Convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a Convention as Called for and defined by the several States; and

WHEREAS, The SOVEREIGNTY AMENDMENT CONVENTION will be a "Single Issue Amendment Convention" defined by State Legislatures. The delegates summoned to this convention by Congress will have the authority to deliberate on and decide if the SOVEREIGNTY AMENDMENT, as pre-approved by State Legislatures, should be sent back to the State Legislatures for ratification. Absolutely no other business will be authorized at this Convention; therefore, be it

Resolved by the Legislature of :

That the United States Congress convene a "Single Issue Amendment Convention" called the SOVEREIGNTY AMENDMENT CONVENTION for the sole purpose to decide if the proposed Amendment should be sent back to the State Legislatures for ratification. Congress is directed to convene the Sovereignty Amendment Convention within 60 days from the date it receives the 34th Call for this Convention from State Legislatures; and, be it

Resolved, That the Clerk forward a copy of this signed Agreement to the leadership in Both Houses of the United States Congress.

This Resolution is hereby entered into and approved by the Legislature of the State of on this date: Month: _____ Day: _____, Year: _____.

Authorized Signatures with Titles:

Seal of the State of

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

Application on the United States Congress Calling for the Countermand Amendment Convention

THE LEGISLATURE OF THE STATE OF
Concurrent Resolution No. _____

(By Legislators) : _____ ; _____ ; _____ ; _____ ; _____ ;
_____ ; _____ ; _____ ; _____ ; _____ ;
_____ ; _____ ; _____ ; _____ ; _____ ; et al

Calling on the United States Congress and instructing Congress to convene the Countermand Amendment Convention under the authority reserved to State Legislatures in Article V of the United States Constitution.

WHEREAS, Article IV, Section 4 of the Constitution of the United States guarantees to every State a Republican form of government which gives each State equal standing when calling for Amendment Conventions. Article V of the Constitution of the United States reserves to the several States the right to call for a Federal Amendment Convention for the purpose of proposing Amendments to the United States Constitution when Congress, the Courts, or the Executive Branch refuse to address an egregious wrong suffered by the people; and

WHEREAS, The States alone have the authority to "define" and "limit" the agenda at an Article V Amendment Convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a Convention as Called for and defined by the several States; and

WHEREAS, The COUNTERMAND AMENDMENT CONVENTION will be a "Single Issue Amendment Convention" defined by State Legislatures. The delegates summoned to this convention by Congress will have the authority to deliberate on and decide if the COUNTERMAND AMENDMENT, as pre-approved by State Legislatures, should be sent back to the State Legislatures for ratification. Absolutely no other business will be authorized at this Convention; therefore, be it

Resolved by the Legislature of

That the United States Congress convene a "Single Issue Amendment Convention" called the COUNTERMAND AMENDMENT CONVENTION for the sole purpose to decide if the proposed Amendment should be sent back to the State Legislatures for ratification. Congress is directed to convene the Countermand Amendment Convention within 60 days from the date it receives the 34th Call for this Convention from State Legislatures; and, be it

Resolved, That the Clerk forward a copy of this signed Agreement to the leadership in Both Houses of the United States Congress.

This Resolution is hereby entered into and approved by the Legislature of the State of on this date: Month: _____ Day: _____, Year: _____.

Authorized Signatures with Titles:

Seal of the State of

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____



TOOLS with TEETH
for State Legislatures
Article V Bi-Partisan
"SINGLE ISSUE AMENDMENT
CONVENTIONS"

January 22, 2014 –

The following Article is the official public policy statement of *Convention of States and Citizens for Self Governance*, author Michael Farris. It can be downloaded at <http://action.conventionofstates.com/>. The formatting of *Convention of States'* statement has been altered, but the text has not.

Comments by Charles Kacprowicz, National Director of Citizen Initiatives are inserted in red with the preface "CK's Comment:". Citizen Initiatives is advancing the Article V *Sovereignty and States Rights Amendment Convention* and component *Single Issue Amendment Conventions* separate from *Convention of States, et al.*

Comments also include unrelated topics such as *Interstate Agreements (Compacts)* between the States, Congressional approval for Article V *Applications*, and the need for Delegate Resolutions. See section 40 below.

The purpose of this edited Article is to identify points of agreement between *Convention of States, et al* and Citizen Initiatives and to clarify differences.

1) Convention of States Policy Statement . . .

Why the States Need To Use Their Constitutional Power to Rein in Abuses of Power by Washington DC The Problem

Washington DC loves its own power and will never relinquish its power. In fact, all branches of the government in Washington DC are committed to the escalating growth of a centralized national government. This truth does not fundamentally change regardless of who is elected to the Congress or the White House.

The addiction to power is fueled by a fundamental reliance on growth in spending, increasing regulation of a broadening swath of American life, and a deadly reliance on debt.

If the national debt was calculated by the normal rules of accounting, where accrued debt was included (e.g., vested social security benefits), the national debt would be well over \$100 trillion and may be as high as \$200 trillion.

CK's Comment: Agree.

2) Convention of States Policy Statement . . .

Washington DC buys votes and power with money. It uses its power to extract money from both today and tomorrow. This nation will deny any semblance of freedom to our children and grandchildren. There will be taxes imposed on them for spending they never approved or from which they received any direct benefit. This is taxation without representation in a multi-generational form that can only be described as tyrannical.

CK's Comment: Agree.

3) Convention of States Policy Statement . . .

The Need for a Structural Solution

The most important rule in any organization is the rule about who makes the rules.

We have allowed Washington DC to be the sole possessor of the power of ultimate rulemaking. As a consequence, the states are becoming, on an increasing basis, the mere implementers of federal policy decisions. Any thought that we are following true federalism is a cruel mockery of the values of those who created our Constitutional federal republic.

We must change the structure of power. No one seriously believes that electing the right member to the House or Senate, or the right occupant of the White House, will fix the structural problems or result in the decentralization of the processes of power.

While changes in personnel through elections can serve good and useful purposes, the only path for a meaningful solution is a structural change which reassigns the authority to make policy decisions for this nation.

In the wake of the 2012 elections, there was a good deal of buzz around the ideas of state nullification and even some hinting at secession. While we can appreciate the frustration with Washington DC that prompts such thoughts, we need to recognize them for what they are. These are extra-constitutional solutions that are revolutionary in character. And while we have come to overuse the term "revolutionary" to describe major innovations, these revolutions are of the same sort as the original American Revolution. Ultimate this path leads to war. And no sensible person wants war when there are viable constitutional and peaceable alternatives available.

CK's comment: "Who makes the rules" is the key question. Citizen Initiatives is working to prevent State Legislatures from abdicating their sovereign authority under Article V.

Delegate Resolutions that define the duties of delegates at a Convention and which include a pre-approved text for the Amendment assures that State Legislatures remain defenders of the Constitution and the last arbiters in all Constitutional matters. Under Article V it they could be said that they are the fourth Branch of federal government.

We agree with the warning that "nullification" and "secession" can lead to violence and even Civil War. For a State Legislature to declare its displeasure with Congress regarding a specific Statute and then "request" Congress to change the law in favor of its interest is not nullification. Nullification is by the very term defiance by a State in opposition to the federal government's mandate.

Nullification can be accomplished, however, without violence through the *Sovereignty and States Rights Amendment* and its *Countermand* provision. When 60% of State Legislatures *Countermand* a law or regulatory ruling decreed by the Federal Government, then it is automatically disallowed and rescinded. It won't matter what branch of government issued the mandate. State Legislatures will be seen as partners in governance, not subjects to federal power. The Amendment also confirms 10th Amendment authority for the States guaranteed in the Constitution. The States will also be able to prosecute intentional violators of the provisions of the Amendment in the absence of federal prosecution.

4) Convention of States Policy Statement . . .

There is a constitutional process that gives the states the unilateral power to change the structure of American government. It is a process given to us by the Founding Fathers for the very situation we face today. When the national government becomes drunk with abuses of power, the states were given the authority to reorganize the government in a manner that preserves the Republic and preserves liberty.

CK's comment: The phrase "change the structure of American government" has an ominous tone. Article V does not allow State Legislatures (nor Congress) to usurp the sovereignty of the Constitution. It simply provides a safe method for the Constitution to be preserved while the Legislatures address egregious wrongs suffered by the people at a Convention. When the federal government refuses to respond to petitions by the people, then State Legislatures can remedy these wrongs though Single Amendment Conventions.

5) Convention of States Policy Statement . . .

We respectfully suggest that not only do the states have this authority; they also have the responsibility to save this nation by using their constitutional prerogatives to stop the federal abuses of power.

Article V & State Power

Article V provides:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress....

CK's Comment: Agree with the following qualifier: the Legislatures do not have the authority to rewrite the Constitution, only to amend it under Article V one grievance at a time. See comment above.

6) Convention of States Policy Statement . . .

There are two groups of elected bodies that have the power to propose constitutional amendments: Congress and the State legislatures. Either group may propose a single amendment, groups of amendments, or an entirely new Constitution. Congress has used its power to propose a group of amendments—these are called the Bill of Rights. Twelve were proposed. Ten were initially ratified. The eleventh was ratified in 1992 and became the 27th Amendment to the Constitution. All other amendments were proposed by Congress as single amendments. While Congress has the power to propose an entirely new Constitution at any time, it has never done so.

CK's comment: Agree up to "proposing an entirely new Constitution".

Under Article V Congress cannot propose a new Constitution. Article V only allows for the proposal of Amendments to the present Constitution. Congress is powerless to create a new Constitution. If the State Legislatures wanted to create a new Constitution, they would have to secede from the Union and Call for a Convention for the purpose of creating a new government. Neither Congress nor State Legislatures, under Article V, have the power to abolish the United States Constitution or our present Constitutional Republic. Both members of Congress and State Legislators have taken an oath to defend the United States Constitution from foreign and domestic enemies. To suggest that Article V empowers them to usurp the Constitution's authority by proposing a new Constitution is a very dangerous idea and if unchecked will lead to flawed assumptions that undermine the stability of our Constitution. If we lose our Constitution we will have nothing with which to peacefully defend our inalienable rights and limited government.

There is indeed a strong precedent for Single Issue Amendments to be proposed by Congress in the future. This historical practice suggests that Legislatures have the same ability. However, under Article V, State Legislatures are sovereign States and how they use this authority for proposing and ratifying Amendments is entirely in their prerogative. The Legislatures do not need historical or legal precedent, nor the permission of Congress, nor the Courts, nor regulatory agencies, nor Article V groups to define their sovereign authority, nor how they should Call for and conduct themselves at a Convention. They alone decide how they will use Article V - providing of course it is limited to proposing Amendments to our present Constitution.

If State Legislatures had to first secure permission from Congress, the Courts, Executive Branch, or regulatory agencies before they Call for a Convention, then the Article V process would be utterly worthless to the States. They would just as well secede from the Union and ratify a new Constitution. The federal government would rule supreme.

See Section 40 below for a discussion of Article I, 10. The Article prohibits Interstate Agreements without Congressional approval. Delegates Resolutions are the only method that allows State Legislatures to safely, predictably and successfully amend the Constitution under Article V without possible violations of prohibitions in Article I, 10.

Conclusion, Article V simply allows the Constitution to be changed one Amendment at a time. Multiple Amendments can be proposed simultaneously through Congress and Conventions. The check on the possible abuse of the Amendment process lies in State Legislatures that must ratify all proposed Amendments.

7) Convention of States Policy Statement . . .

State legislatures also have the power to propose constitutional amendments through the convention process. Whenever two-thirds of the states (i.e. 34/50) apply for a Convention for amendments, Congress has the ministerial (non-discretionary) duty to call such a Convention.

CK's Comment: Agree.

8) Convention of States, et al . . .

There have been over 400 state legislative applications for an Article V convention for the purpose of amendments in the history of the Republic. Yet, a convention for this purpose has never been called. The reason is simple: there has never been a group of applications for the same purpose that reaches the required numerical threshold.

CK's Comment: Agree. In addition, there has never been an oversight group to facilitate the Applications to assure that Congress has Constitutionally fulfilled its mandate to convene

a Convention when two thirds of the States complete their Applications on Congress. Citizen Initiatives intends to facilitate the Amendment process on behalf of State Legislatures to make certain that Congress does convene the bi-partisan *Sovereignty and States Rights Amendment Convention*, or other *Single Issue Amendment Conventions*, when 34 States complete Applications. The Amendment's provisions include:

1. Confirmation of Constitutional, National and State sovereignty.
2. Confirmation of Amendment IV privacy protections in an electronic age.
3. Countermand authority for the States that can disallow and rescind new and existing laws and regulations that are onerous to the States.
4. Enforcement by allowing the States to prosecute intentional violators of the Amendment in the absence of federal prosecution.

For the text of the Amendment go to:

http://citizeninitiatives.org/sovereignty_states_rights_amend.htm

For a copy of the Delegate Resolutions go to:

http://citizeninitiatives.org/Delegate_Resolution_Sovereignty_States_Rights.htm

9) Convention of States, et al . . .

For over 200 years, Congress has followed a single subject rule. Conventions can only be called when 34 states apply for a Convention for the same purpose. This is a powerful legislative precedent that cannot be overstated as to its importance. The meaning of Article V in this regard has been established by the strongest possible precedent—over 200 years of unbroken practice.

CK's comment: The 200 year precedent is not controlling. However, a single subject Convention, as proposed by COS, carries the idea that delegates alone decide what subjects and content they will deliberate on at the Convention. COS' proposed Call includes the following four Subjects:

1. imposing fiscal restraints on the federal government
2. limiting its power
3. restricting its jurisdiction, and
4. mandating term limits for elected or appointed officials

Each one of these 4 subjects for delegates to debate at the Convention can have many undefined sub-Subjects. There could be dozens of sub-Subjects for each Subject. In addition, each of COS' proposed Subjects, in today's political climate, is partisan. Under each Subject there would be dozens of different definitions offered by the delegates to define what the issues are, how define specific problems, what the

solutions are and what the text should be for each Subject and sub-Subject.

Congress could summon 534 delegates to the COS Convention and the Legislatures could appoint the same number. The first order of business would have to be how the Convention is to be organized. Will the delegates agree that each State Delegation is to have one vote as guaranteed in Article IV, 4. Or will they decide that each delegate has one vote? California would have 50+ delegates with Montana having no more than 4. Will Robert's Rules of Order apply or will they create a new Convention process? In the absence of pre-defined and pre-approved instructions to the delegates by the Legislatures, mayhem will be the result. There are forces in America today that are encouraging the convening of the COS Convention with intentions to disrupt its proceedings and eventually create Amendments that would suit their political and ideological interests. Only State Legislatures through Delegate Resolutions can prevent mayhem at the Convention.

A single Amendment Convention with Delegate Resolutions that include a pre-approved text of the proposed Amendment (*Sovereignty and States Rights Amendment* and component *Amendments such as the Countermand Amendment Convention*) will result in a safe, predictable and successful Convention. Article 1, 10's prohibitions against Interstate Agreements will not be violated because the Delegate Resolution is a contract between State Legislatures and their delegates to the Convention. It is not a compact between the States. 34 States are still required for the Calls and all States will decide if the Delegate Resolution will be approved by their Legislatures. Each Legislature that passes a Delegate Resolution with wording similar to the other States will be giving instructions to their delegates only. In the congregate the Legislatures will be defining the duties of their delegates only at the Convention without violating any prohibition against Interstate Agreements. Under Article V Delegate Resolutions are a State Legislature prerogative and do not require the Governor's signature.

With a pre-approved Delegate Resolution, which includes the text for the *Amendment*, State Legislatures are the sovereign deliberative body, not delegates sent by the Legislatures to a Convention.

The State Legislatures define their sovereign authority, no one else. Delegates sent to a Convention are Ambassadors of their Legislatures, they are not free agents. There are many examples in both private and government where delegates follow the instructions of the body that appointed them to the Convention. An example would be Baptist Conventions where the delegates summoned do not add to or change the agenda at the Convention. Their role is to decide through their vote whether or not a particular pre-approved amendment to their organization's Constitution should be approved or not. They are Ambassadors representing their local Churches. Delegates to an Article V Convention are

similarly under the authority of their Legislatures and thereby required to vote on a pre-approved Amendment text with instructions on how to organize the Convention.

10) Convention of States, et al . . .

We believe that it is the time for the state legislatures to use this Article V power to propose a group of specific amendments to rein in the abuses of power by the federal government.

CK's comment: Agree, but with pre-approved Single Amendment Conventions, not "Subject" Amendments to be defined by delegates at the Convention.

11) Convention of States, et al . . .

Steps in the Process

Here is how it would work:

Thirty-four state legislatures would pass similarly worded resolutions which call for an "Article V convention to propose amendments which limit the authority and jurisdiction of the federal government."

Congress would have a non-discretionary duty to call the convention. The call could only name the time and place for the Convention.

CK's Comment: Agree, with the clarification that the Call should be for a Single Amendment Convention defined in a Delegate Resolution.

Why would State Legislatures want to surrender their sovereign authority to delegates in order to reach a political compromise? The ultimate question in Article V Conventions is will Legislatures abdicate their sovereignty? If they do they will have established a terrible precedent making it virtually impossible to reclaim for future generations.

12) Convention of States, et al . . .

The convention is a convention of the states.

CK's comment: Citizen Initiatives believes the name "Convention of States" is misleading and carries a reliance on flawed applications of precedents, history and State Convention experiences. All Article V Conventions would be better described as *Amendment Conventions*. In fact, Article V was inserted into the Constitution to propose Amendments, not to usurp the authority of the Constitution.

In Citizen Initiatives' case the specific title in the Call on Congress for all States would be *Sovereignty and States*

Rights Amendment Convention and/or component Single Issue Amendments such as *Countermand Amendment Convention*.

Of course, it is possible for the Call for the *Amendment Convention* to go forward in parallel to COS.

13) Convention of States, et al . . .

This necessarily means that each state has its own ability to prescribe whatever means it wishes to choose its own delegates.

CK's Comment: Agree.

14) Convention of States, et al . . .

All voting would be on the one-state, one-vote rule, just as the original constitutional convention. (And which is the only possible rule when the members of the convention are the states and not the delegates).

CK's comment: Agreed that Article IV, 4 must govern the deliberations at the Convention, but with as many as 534 delegates summoned to the Convention this issue must be decided by the Legislatures before convening the Convention through a Delegate Resolution. Otherwise, there will be mayhem at the Convention with politically charged delegates deciding if one vote per State Delegation will rule or one vote per delegate. One vote per State delegation regardless of the States' population or number of delegates sent to the Convention must be decided by State Legislatures before the Convention is convened.

15) Convention of States, et al . . .

Only amendments that are germane under the language of the applications (i.e., they call for limitations on the authority and jurisdiction of the federal government) may be approved.

CK's comment: Problem! How will the Convention decide: 1) which Subjects and sub-Subjects the delegates will address under COS' proposal, 2) what the problems are under each Subject and sub-Subject, 3) what solutions should be offered, 4) what the text of each proposed Amendment should be, and finally, 5) if the Amendment, as proposed, should it be sent to the States for Ratification. This scenario would have to be followed by the delegates for each COS Subject and sub-Subject in their Call for a Convention. It is doubtful that any Amendment in a politically charged Convention would be able to forthrightly address the countries troubles.

COS' "Subjects" are partisan by nature and as such will create divisions at the Convention. The *Sovereignty and States Rights Amendment* and component *Countermand Amendment Convention, et al*, on the other hand, is bi-

partisan. It allows State Legislatures to address the nation's problems through *Countermands* and *State Enforcement*. Political motivations will be minimized. For example, State sovereignty can be defended by all political parties.

16) Convention of States, et al . . .

A simple majority vote (of states) is required to propose amendments.

CK's comment: Agree, but only if the Convention is organized under Article V, 4. This will not be guaranteed with delegates at the Convention deciding the matter. Delegate Resolutions will assure that each State has one vote.

17) Convention of States, et al . . .

Congress would then have the duty to name one of two methods for ratification of the proposed amendments. They could call for state-based ratification conventions, or for ratification by the state legislatures.

CK's Comment: Agree.

18) Convention of States, et al . . .

When 38 state legislatures (or state conventions) ratify any or all of the proposed amendments, they become a part of the Constitution of the United States.

CK's Comment: Agree.

19) Convention of States, et al . . .

Answering Common Questions

Can the Convention be limited to a specific subject?

Yes. We have a 200 year legislative precedent that says that the single subject (or purpose) rule has been followed by Congress. The Convention will only be called when 34 states make applications for a single subject or purpose.

CK's comment: Disagree. Precedent will not guarantee that the deliberations at the Convention will be safe, predictable and successful. 26 or more Delegate Resolutions will.

20) Convention of States, et al . . .

Just like Congress, the Convention must also follow the single subject rule. We have a judicial precedent which is important also.

CK's comment: Disagree. There is no parallel between Congress and an Article V Convention. There is no "Single

Subject Rule" that delegates are required to follow. Article V Conventions have a new and different purpose. It is conceivable that under Article V State Legislatures become the 4th Branch of the federal government. In fact, they are the final arbiters in all Constitutional matters. With such authority precedent is not and must not be controlling. These truths reaffirm the importance of Delegate Resolutions.

An Article V Convention through State Legislature bypasses Congress, the Courts, Executive Branch and regulatory agencies. It decides how the federal government is to conduct itself. Delegates at such a powerful Convention must be bound by contract to their State Legislatures.

21) Convention of States, et al . . .

In 1978, Congress passed a resolution which purported to extend the deadline for the ratification of the Equal Rights Amendment by approximately three-and-a-half years. This attempt to change the rules in the middle of the Article V process was challenged in court by state legislatures from Idaho, Washington, and Arizona. The federal district court in *Freeman v. Idaho*, CITE, held that it was unconstitutional for Congress to attempt to change the rules in the midst of the Article V process.

CK's Comment: Agree.

22) Convention of States, et al . . .

It must be remembered that Congress and the Convention possess equivalent power regarding the basic components of the amending process. If Congress cannot change the rules of the process when it has initiated the Article V process, the States (through a convention) are equally prohibited from changing the process once it has been started. The Supreme Court vacated the decision on mootness grounds when 38 states failed to ratify even under the extended deadline. Thus, the precedent is not equivalent to a Supreme Court decision, but it is a reasonable view of the correct outcome in the process of litigation. The author of this paper was counsel for the Washington legislators in that litigation.

CK's comment: Agree.

23) Convention of States, et al . . .

What are the safeguards if a Convention attempts to go beyond the applications from the States?

The ultimate safeguard is this: 34 states applied for the convention for a particular purpose. It would require 38 states to ratify any amendment that would be proposed out of a Convention. It would only take 13 states to vote "no" on any proposed amendment to defeat it. The chances of 38

state legislatures approving a rogue amendment are effectively zero.

Moreover, the *Idaho v. Freeman*, case demonstrates that the courts will review a constitutional challenge brought by state legislators to an abuse of the Article V process. There is every reason to believe that the rule of *Freeman* would be followed: any change in midst of the Article V process is unconstitutional.

CK's comment: Agree. See comments above regarding sovereign authority resting in State Legislatures when proposing and ratifying Amendments through Conventions.

The Supreme Court is the policing authority that can protect the Amendment process. State Legislatures, however, control Article V Conventions and ratifications of Amendments which means they decide what Constitutional mandates the Supreme Court is required to follow. Ultimately, State Legislatures have final authority in all Constitutional matters.

24) Convention of States, et al . . .

Why should we trust this process, after all the original Constitutional Convention was a runaway convention that abused its mandate to amend the Articles of Confederation?

This attack on the integrity of the United States Constitution is based on utterly fallacious history. Here are the relevant facts:

The call for the Constitutional Convention specified that it was "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union."

CK's comment: Agree.

25) Convention of States, et al . . .

Thus, the document contemplated was an adequate federal constitution.

CK's comment: Agree.

26) Convention of States, et al . . .

There was no limit on the number of amendments to the Articles which could be proposed.

CK's comment: Agree. However, under Article V the rules have changed. The purpose and methods to amend the

Constitution today were created to protect our Constitutional Republic while addressing problems facing the nation. Article V no longer allows an Open Convention (Constitutional Convention) which the Confederation Congress convened.

27) Convention of States, et al . . .

There was no requirement which prohibited the Convention from proposing amendments as a complete package rather than as a series of amendments. Political reality suggested that it was most likely that a package deal would be forthcoming so that the negotiations and balancing of interests between the states could be achieved.

CK's comment: Agree. However, the State Legislatures, with their ratification, required the new Congress to immediately send Amendments (today's Bill of Rights) back to the Legislatures for ratification that would protect personal liberties and further limit the power of federal government. The Convention did not initiate the Bill of Rights, the new Congress did. In fact, the ratifications of the new Constitution by the Legislatures were conditional upon Congress doing as directed by the States. If Congress refused then the States could have argued that the new Constitution was not properly ratified. They could have returned to governance under the Articles.

28) Convention of States, et al . . .

Some provisions of the Articles of Confederation were carried forward into the Constitution. Thus, while there were substantial changes, it was in fact an amendment to the Articles.

CK's comment: Agree. This is an excellent observation.

We might want to take it one step further and conclude when Rhode Island refused to participate in the deliberations at the Convention they in fact abdicated their authority under the unanimous vote requirement in the Articles. When the other 12 States moved forward with the Amendment process, which included writing the Constitution we have now, they did so determined not to allow one State hold the others hostage. The problems that needed to be addressed by the Founders included inflation, taxes, commerce, supplying the Army and others, were so severe that to ignore them meant the Revolutionary War would have been fought in vain. The nation would have returned to being a Monarchy. This, of course, was exactly what George Washington refused to entertain by rejecting a proposal that he be the first king of the United States.

The most difficult problem for the delegates at the Constitution Convention was how the States would retain their sovereignty. Under the Articles of Confederation amendments required a unanimous vote. The delegates solved this problem by changing the unanimous vote

requirement to three quarters. However, State Legislatures never abdicated their sovereignty with this change and Article V delegates were never given independent sovereign authority from their Legislatures.

29) Convention of States, et al . . .

The Constitution Convention did not send the Constitution to the states to be ratified as is commonly (and falsely) believed.

The Constitution (together with a new proposal for ratification) was sent to Congress. Thus, the very group—Congress—which called the Convention into being is the one which received the work product. If Congress believed that the Convention had abused its authority, it has the complete authority to reject their work. Instead, Congress exercised its power under the amending process of the Articles of Confederation to approve both the new Constitution and the new methodology for ratification. The new methodology for ratification had two changes. First, the number of states required for ratification was changed from 13 to 9. Second, the group asked to do the ratifying was changed from the legislatures to specially-called ratification conventions in each state.

CK's comment: Agree.

30) Convention of States, et al . . .

Congress still did not send the Constitution to the state conventions. It sent the Constitution and the new proposal for ratification to the state legislatures.

CK's comment: Agree.

31) Convention of States, et al . . .

Congress asked the state legislatures to approve the change in the ratification process by calling ratification conventions.

CK's comment: Agree. However, this is not a parallel event to an Article V Convention. In fact, the delegates asked the Confederation Congress to send the proposed Constitution to State Conventions for ratification probably for political reasons.

32) Convention of States, et al . . .

That is exactly what happened. All 13 state legislatures called ratification conventions thus approving the new process.

CK's comment: Agree.

The Constitution was then adopted by 11 state conventions (two more than required). Two states—North Carolina and Rhode Island—rejected the Constitution itself, but both of

these states had approved the new process and eventually ratified the new Constitution. In fact, our Constitution was eventually ratified unanimously by 13 States.

33) Convention of States, et al . . .

Thus, we can see that the original process was not a runaway convention as is often contended by those who argue against the use of Article V power. This argument is based on false history and an inconsistent view of the Constitution.

CK's comment: Agree.

34) Convention of States, et al . . .

Opponents of an Article V convention say that it is dangerous to place our dearly beloved Constitution (which was illegally adopted by a runaway convention) into any danger by calling such a convention. How can the Constitution be dearly loved and illegal at the same time?

CK's comment: Agree.

35) Convention of States, et al . . .

The reality is that the modern originators of this runaway convention idea were liberals who wanted to thwart any limitation on federal power. One of the leading advocates of this theory is former Chief Justice Warren Burger who joined the majority opinion in *Roe v. Wade*. No one can be a constitutionalist and vote for *Roe v. Wade*. Constitutional conservatives should not listen to anti-constitutional liberals like Burger.

CK's comment: Agree.

36) Convention of States, et al . . .

Even if there are safeguards, why should we take any risk by calling an Article V convention?

The reality is this: Congress and the federal government are in fact on a path to destroy this nation. There is no question about whether this will happen, there is only a question as to when our nation will collapse as a result of federal abuses—particularly the abuses of the use of the debt power.

The threat from Congress should be rated as a 100% certainty. The threat from a runaway convention cannot be said to be "zero" but it is very close to "zero" as a matter of both legislative and judicial practice.

CK's comment: Agree. Delegation Resolutions would, however, assure that the delegates at the Convention would

be prohibited from entertaining any plans to overwhelm the Convention with devious ideologies.

37) Convention of States, et al . . .

The threat posed by Congress is far more deadly than any threat posed by an Article V convention. The states must not listen to fear mongers who will destroy this nation by allowing Congress to continue to abuse its power unchecked.

CK's comment: Agree.

38) Convention of States, et al . . .

What Amendments could be proposed to limit federal power?

Require a balanced federal budget with real teeth and enforcement power.

Repeal all tax laws in five years through a "sunsetting provision".

Require a super-majority vote for replacing these taxes and all new taxes.

Prohibit the federal government from spending money on items that are lawfully funded by states. (Example, if the states can spend money on education, then the federal government cannot do so.)

Prohibit the federal government from regulating businesses, individuals, or property for purposes that states can also regulate. (Example, if the states can regulate wages and hours, then the federal government cannot do so. If the states can regulate health care and health insurance, then the federal government cannot do so.)

Prohibit the use of executive orders or federal regulations as a source of federal law that binds private citizens or private property. All federal laws would be required to be passed by Congress.

Prohibit the treaty power from governing the domestic powers of this nation.

All of these proposals would be germane under this plan, but would require a majority vote of the states to be actually approved and sent out for ratification.

CK's comment: Citizen Initiatives concludes that by trying to address all or more of these "Subjects" at a COS convention will cause Congress to reject the application because it is not Amendment specific. Multiple Single Amendment Conventions such as the *Sovereignty and States Rights Amendment Convention* or other *Single Issue Amendment Conventions* will prevent contention between the Legislatures

and Congress. Specific Amendments can be addressed in pre-approved Delegate Resolutions that bind delegates at the Convention to the instructions by State Legislatures.

Each of these issues should be addressed by the States, but for a safe, predictable and successful Convention the delegates must be bound by Delegates Resolutions. There is no restriction in the Constitution preventing the State Legislatures from Calling (Applications) on Congress for multiple Single Amendment Conventions simultaneously.

39) Convention of States, et al . . .

The states have the power to save the Republic by reining in the abuses by Washington DC. They must do so.

CK's comment: Agree.

CK's final comment: Comparing the Bill of Rights or any of the 27 Amendments to the Constitution is incongruous. Everyone of the Amendments proposed by the Confederation Congress and our present Congress was with pre-approved texts that the States either ratified or rejected. With Article V Conventions only the Legislatures have the authority to pre-approve the text of Amendments, not delegates. Remember, the Legislatures have the authority to amend our Constitution with proposed Amendments which mandates how the Supreme Court will rule, how Congress will legislate, how the Executive Branch will govern, and how Regulatory Agencies behave. That's a powerful amount of Constitutional authority and as long as Conventions are limited by pre-approved Amendments through Delegate Resolutions the deliberations at a Convention will be safe, predictable and successful.

Congressional prerogatives are a different animal. The rules under Article V must be defined by the State Legislatures alone independent of Congress, the Courts, Executive Branch and Regulatory Agencies.

40) INTERSTATE AGREEMENTS (Compacts Between the States) - Prohibitions in Article I, Section 10

Compact for America and *Goldwater Institute* are advancing the idea that the best solution for addressing America's problems is with an Article V 2.0 Turn-Key Approach. Their strategy is to have the State's agree to an *Interstate Agreement (Compact)* that would define the Article V process from pre-Call events, to the Call, to the final ratification of Single Issue Amendment. Their focus is on the Balanced Budget Amendment.

The following is Goldwater Institute's policy statement:

"Using an agreement among the states called an "interstate compact," the Compact for America invokes Article V of the United States Constitution to advance one or more specific

constitutional amendments. An interstate compact provides the vehicle to advance constitutional amendments because it **transforms the otherwise cumbersome state-initiated amendment process under Article V into a "turn-key" operation.**

The Compact for America empowers the states to agree in advance to all elements of the amendment process that states control under Article V in a single enactment that can be passed in a single session. **The Compact does require congressional consent to work**, but such consent is achieved by simple majority passage of a congressional resolution, which consolidates everything Congress must do in the Article V process in a single enactment and in a single session. Specifically, the Compact and the counterpart congressional resolution include:

- The text of the proposed amendment (specified in the Compact);
- The Article V application to Congress (specified in the Compact);
- An interstate commission that organizes the convention (specified in the Compact);
- The convention call (specified in the congressional resolution); All delegate appointments and instructions (specified in the Compact);
- The convention location and rules (specified in the Compact);
- An agenda limited to the consideration of the proposed amendment (specified in the Compact);
- The ratification referral (specified in the congressional resolution);
- The ultimate ratification of the proposed amendment (specified in the Compact).

In short, the Compact for America consolidates everything Congress and the States do in the Article V process into just two overarching pieces of legislation—one congressional resolution and one interstate compact joined by thirty-eight states. It thereby dramatically cuts the time and resources needed to achieve a state-originated constitutional amendment. The Compact transforms the state-originated amendment process, which otherwise requires more than 100 state and congressional enactments across five or more legislative sessions, into something that can get done in a single legislative session for each member state and Congress. Rather than a legislative quest that will take ten to twenty years, the Compact can generate a constitutional amendment in as little as one year."

CK's Comment: There are a few serious oversights with this approach even though it does protect the text of the Balanced Budget Amendment which would be included in their Compact between the States.

1. The Compact process assumes that every element in the Article V process can be satisfactorily addressed

in one Compact by the States and that the triggers in the process to automatically start the next event will occur.

2. They want to secure 38 States to pass their Compact, not 34 to start the process with a Call. This makes the task of Compact agreement by the States more difficult. The initial Call requires 34 Legislatures.
3. The Goldwater Institute makes the following statement:

"The Compact is like a ballot measure directed to state legislators, governors and Congress."

Article V does not require the governors or Congress to have any say in the sovereign authority that rests in State Legislatures alone. The Compact causes the Legislatures to abdicate their sovereignty by attempting to define an amendment process to include branches of government that have no authority under Article V.

4. The Goldwater Institute makes the following statement that Citizen Initiatives is trying to prevent:

"The Compact does require congressional consent to work, but such consent is achieved by simple majority passage of a congressional resolution, which consolidates everything Congress must do in the Article V process in a single enactment and in a single session."

Article V provides State Legislatures with sovereign authority independent of Congress, the Courts, Executive Branch, Regulatory Agencies, Governors and all other State governing bodies. The Compact for America forces the Legislatures to secure permission from Congress before their Amendment process can succeed. It also opens the door to a myriad of law suits as to the legal and Constitutional process under Article V. Lastly, there is no assurance that the process will move forward as they are projecting. There will be many political, legal and Constitutional obstacles to overcome in the 50 States and Congress.

5. A very serious problem with the Compact for America approach is it is likely to violate the prohibitions in Article 1, 10 (paragraph 3) against Interstate Agreements (Compacts):

"No State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, or with a foreign Power, . . .":

Even if this prohibition can be overcome under Article V legally and Constitutionally, the most difficult problem will be the political one. Adversaries in Congress will have a field day attacking the proposed Amendment due to its political ramifications starting with is the *Interstate*

Agreement acceptable in the Article V process. Remember, when the Legislatures Call on Congress to convene a Single Amendment Convention for proposing an Amendment Congress has no discretion when 34 States complete the same Call. With Compact with America their entire process would be seen as inconsistent with Article V which will be very problematic for the States and Congress.

6. Finally, because in Goldwater's own words:

"The Compact does require congressional consent to work,"

the proposal must be rejected if State Legislatures are to retain their Sovereign Authority in Article V. State Legislatures must not abdicate their Article V sovereignty if America has any chance to reclaim its Constitutional heritage and values.

Charles Kacprowicz
Citizen initiatives
Single Amendment Conventions
P.O. Box 523
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director@federalamendments.us
<http://citizeninitiatives.org>

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LIST OF SUPPORTERS FOR "SINGLE ISSUE" AND SINGLE AMENDMENT CONVENTIONS

MADISON AMENDMENT STRATEGY

The following proposed text originated in the 80's under President Ronald Reagan's Presidency: *

"ARTICLE ____ . The Congress, on Application of the Legislatures of two thirds of the several States, which all contain an identical Amendment, shall call a Convention solely to decide whether to propose that specific Amendment to the States, which, if proposed shall be valid to all intents and purposes as part of the Constitution when ratified pursuant to Article V."
<http://madisonamendment.org>

WHAT JAMES MADISON SAID:

James Madison writing in Federalist 43: "It (the Constitution) equally enables the general and the State governments to originate the amendment of errors, as they may be pointed out by the experience on one side or the other"

The Madison Amendment restores the original meaning of the Constitution, it gives States the ability to use the power that the authors of the Constitution intended them to have.

*Based on an idea originally proposed by Ed Meese when he was Reagan's Attorney General, this strategy was created in consultation with a legal team led by David Rivkin, outside counsel to the 26 states suing to overturn Obamacare. It involves passage of state laws in as few as 26 states, or the passage of a state constitutional amendment in just 13 states to end the risk of a runaway convention and to give 34 states the power to force Congress to propose a specific Amendment states want without holding a convention at all.

The idea of giving the states the same power as Congress (a right the States inherently have in Article V, but not recognized by many *) to propose an individual Amendment has a broad range of conservative support including Americans for Tax Reform President Grover Norquist, American Conservative Union Chair Al Cardenas and Past Chair David Keene. Endorsers also include Parental Rights.Org President Michael Farris, McCain 2008 Chair Charlie Black, and National Taxpayers Union Board Member David Keating. It has been endorsed by ALEC, Goldwater Institute and NTU.

If state legislators in 34 states had the power to safely force Congress to propose an Amendment to the U.S. Constitution, the balance of state and federal power would shift significantly in the states' favor. It could be possible for states, for example, to force Congress to propose a balanced budget amendment to the U.S. Constitution.

http://madisonamendment.org/State_Leaders_Support.html

Supported by State Leaders in a unanimous vote on Thursday August 5, 2010 the ALEC International Affairs and Federalism Task Force recommended that ALEC ([The American Legislative Exchange](http://www.alec.org)

[Council](http://www.alec.org)) endorse the proposed Madison Amendment to the U.S. Constitution.

Five former presidents of state legislators' organizations are now supporting the Madison Amendment to restore a balance of state and federal power.

Kim Koppelman, past Chairman of the Council of State Governments from North Dakota.

Dolores Mertz, former Chairman of ALEC and a Democratic State Representative from Iowa.

Bill Raggio, former Chairman of ALEC and State Senate Minority Floor Leader from Nevada.

Steve Rauschenberger, former President of NCSL and a former State Senator from Illinois who is running for re-election this year.

Jeff Wentworth, past Chairman of CSG South and a State Senator from Texas.

Abbreviations:

NCSL-National Conference of State Legislators

ALEC-American Legislative Exchange Council

CSG-Council of State Governments

MADISON AMENDMENT ENDORSEMENTS AND STRATEGY

The "Madison Amendment" would empower states to limit an Article V convention. Delegates would have authority to call an up or down vote on a single amendment. (For example a balanced budget amendment).

ENDORSEMENTS:

Conservative Leaders

Grover Norquist, President, Americans for Tax Reform

Al Cardenas, Chair, American Conservative Union

David Keene, Chair Emeritus, American Conservative Union

Ted Cruz, Former Solicitor General of Texas

David McIntosh, Co-Founder of the Federalist Society

Colin Hanna, President Let Freedom Ring

Lew Uhler, President, National Tax Limitation Committee

Charlie Black, Chair of the McCain 2008 Campaign

Michael Farris, President Parental

David Keating, Board Member, National Taxpayers Union

Bob Williams, President, Evergreen Freedom Foundation

Paul Jacob, President, Citizens Back in Charge

Chuck Muth, President, Citizen Outreach, NV

Curt Levy, Executive Director, Committee for Justice)

Current and Former RNC Leaders

David Norcross, Past General Counsel of the RNC

Bruce Ash, Chair RNC Rules Committee

John Ryder, Chair, RNC Redistricting Committee

Florida GOP Ntl Committeeman Paul Senft

Ron Nehring, Past Chair, CA Republican Party

Saul Anuzis, Past Chair, Current National Committeeman Michigan

Republican Party Organizations

ALEC (The American Legislative Exchange Council)

The National Taxpayers Union

The Conservative Party of N.Y.

Congress:

Rep. John Culberson (R, TX)

Rep. Henry Cuellar (D, TX)

Rep. Rob Bishop (R, UT)

Rep. Cynthia Lummis (R, WY)
Rep. Tom McClintock (R, CA)
Rep. Loule Gohmert (R, TX)
Former Rep. Walt Minnick (D, ID)
Former Rep. Bob Livingston (R, LA)

Past Chairs/Presidents of Associations of State Leaders:

Steve Rauschenberger (R, IL) NCSL (National Conference of State Legislators)
Kim Koppelman (R, ND) CSG

(Council of State Governments)

Dolores Mertz (D, IA) ALEC
Steve Faris (D, AR) ALEC
Bill Raggio (R, NV) ALEC
Noble Ellington (R, LA) ALEC
Jeff Wentworth (R, TX) CSG-South
Trey Grayson (R, KY) NASS
(National Association of Secretaries of State)

Legal Experts:

David Rivkin, Outside Counsel to 26 States suing to overturn "The Affordable Health Care Law known as "Obamacare"
Chuck Bell, Past Chair Republican National Lawyers Assn
Don Ayer, Former Deputy Attorney General of the U.S.
Bruce Fein former DOJ Deputy Associate Attorney General
Mike Carvin, Constitutional Litigator
Ron Rotunda, Chapman University
Phil Kiko Former Chief Counsel,
House Judiciary Committee
Former Counsel to the U.S. House of Representatives Michael Stern
State Leaders
Jim Geringer Former Gov WY
Ed Schafer Governor Former Gov ND
Former Lt Gov Andre Bauer (SC)
House Speaker Jim Tucker (LA)
House Speaker Becky Lockhart (UT)
Senate President Michael Waddoups (UT)

Speaker

House Speaker Bobby Harrell (SC)

State Legislators:

Nh Sen Fenton Groen, Rep Roger Berube
Ct Rep John Piscopo
Md Rep Michael Hough
Pa Rep Gordon Denlinger, Rep. Garth Everett
Va Rep Jim LeMunyon, Brenda Pogge,
Nc Rep. Fred Steen, Sen David Rouzer
Sc Rep Uston Barfield, Rep. Richard Chalk
Al Rep Jack Williams
La Rep Noble Ellington
Ark Sen Bill Lamoureux
Tn Sen Stacey Campfield, Rep. Matthew Hills
Mi Sen. Tonya Schuitmaker
In Sen Jim Buck
Il Sen Chris Lauzen
Mn Reps Steve Drazkowski/Glenn Groenhagen
Nd Rep Kim Koppelman, Rep Blair Thorsen
Sd Rep. Lora Hubbell
Ks Sen Jean Schodorf
Tx Rep Jerry Madden, Sen Jeff Wentworth
Nm Rep David Chavez, Rep. Yvette Herrell,
Co Sen Kevin Lundberg, Sen Kent Lambert

Id Sen Curt McKenzie
Wy Rep Sue Wallis
Ut House Maj. Leader Brad Dee, Rep. Ken Ivory, Rep. Brad Daw, Rep. Paul Ray
Az Sen Frank Antenori
John Overington, Senior Delegate - State of West Virginia "Senior Delegate over 30 Yrs"
Glen Bradley, Representative - North Carolina "House of Representatives"
Josh McKoon, Senator - State of Georgia
Bruce Tutvedt, Senator - State of Montana "Senate President Pro Tem"
Peggy Mast, Representative - State of Kansas
Art Wittich, Senator - State of Montana
Alan Hale, Representative - State of Montana
Josh Brecheen, Senator - State of Oklahoma
Phil Frye, Representative - State of North Carolina
A great many other State Legislators in the following States Support Citizen Initiatives' "Single Amendments"

Alabama, Alaska, Arkansas, Arizona, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Montana, Wyoming

Other Leaders

David M. Walker, Former Comptroller General of the United States
Former Ark Rep. Dan Greenberg
Former Mo Rep. Ed Emory
Former Ohio Sen. Kevin Coughlin
Richard Vedder, University of Ohio
Barry Poulson, University of Colorado
Partial list. Titles for identification purposes only.

SURVEY RESULTS*

75 percent of American voters think "a check on Washington is what we need now in order to restore the balance of power between the federal government and state governments."

80 percent believe the relationship between the federal and state governments should be more like a "partnership with equal footing and influence".

72 percent say that states and federal government are not sharing power today.

57 percent of Democrats, 82 percent of independents and 95 percent of Republicans agree with we need "a check on Washington"

*These are the results of a national poll done by Kellyanne Conway for the State Policy Network.

Rep. Tammie Wilson

From: Emily Thynes <emilythynes@gmail.com>
Sent: Thursday, February 06, 2014 1:19 PM
To: Rep. Tammie Wilson; Rep. Wes Keller; Rep. Pete Higgins
Subject: HJR 22

Dear Representative Wilson, Representative Keller, and Representative Higgins,

I seldom write to elected officials and am not from any of your districts, but I wanted to take a moment to proffer my heartfelt gratitude to all of you for co-sponsoring HJR 22. This kind of action from the states is long overdue, but this effort gives me hope that we can actually live to see our Constitution and personal and state liberties lifted back up to their former position of prominence. What you are doing will not be popular with the media, and, sad to say, even some constituents, but you are doing the principled thing for Alaska and the nation. Please keep going, and God bless you.

Sincerely,

Emily Thynes
Juneau

Sent from my iPhone

Rep. Tammie Wilson

From: Zabrina Byfuglien <zabrinabyfuglien@dbsd.org>
Sent: Friday, February 07, 2014 8:49 AM
To: Rep. Bob Lynn; Rep. Wes Keller; Rep. Lynn Gattis; Rep. Shelley Hughes; Rep. Doug Isaacson; Rep. Charisse Millett; Rep. Jonathan Kreiss-Tomkins; Rep. Tammie Wilson
Cc: Daryl Frisbie; kesslyntench@dbsd.org
Subject: Re: State of Affairs Testimony, Zabrina B.

We are continuing our constitutional studies and would love to have the opportunity to testify again as we increase our understanding of this very important issue. Please be in touch.

Zabrina Byfuglien

Tri-Valley High School

On Feb 6, 2014, at 10:00 AM, Zabrina Byfuglien <zabrinabyfuglien@dbsd.org> wrote:

> Hello, this morning I testified to the State of Affairs Committee and Representative Bob Lynn asked me to send in my testimony. It is as follows.

>

>

> Hi my name is Zabrina Byfuglien and I'm a junior at Tri-Valley school. I'm here with a few students from my government class, and we believe this there has been too much power vested in the federal government and not enough in the states. This is not how it should be. An example of the government taking away state sovereignty is in our education curriculum. Most of the decisions about this are made by the national government, when they should be being made by the state government, such as you folks in Juneau. I would like to address that this is what our founding fathers truly planned for our country. Here are a few quotes to show you.

>

> From Federalist Paper number 39..

> "Each state, in ratifying the Constitution, is considered as a sovereign body, independent of al others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a FEDERAL, and not a NATIONAL constitution."

>

> This was cementing that the states will have rights after signing the constitution and can stay independent.

>

> From Alexander Hamilton in Federalist Paper number 32..

> "But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, EXCLUSIVELY delegated to the United States."

>

> This shows that Alexander Hamilton believed that the states should ALWAYS have sovereign power.

>

> From Thomas Jefferson..

> "When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated."

>

> This is saying thing that he federal government doesn't need to be brought into all if Alaska's business.

>

> And lastly, from Thomas Jefferson is..

> "When governments fear the people there is liberty. When the people fear the government there is tyranny."

>

> This is what I'm afraid of. That our government will become too powerful and we will all end up fearing them. There should be more state sovereignty.

>

> Thank you for allowing me to testify.

>

Rep. Tammie Wilson

From: Zabrina Byfuglien <zabrinabyfuglien@dbsd.org>
Sent: Thursday, February 06, 2014 10:01 AM
To: Rep. Bob Lynn; Rep. Wes Keller; Rep. Lynn Gattis; Rep. Shelley Hughes; Rep. Doug Isaacson; Rep. Charisse Millett; Rep. Jonathan Kreiss-Tomkins; Rep. Tammie Wilson
Cc: Daryl Frisbie; kesslyntench@dbsd.org
Subject: State of Affairs Testimony, Zabrina B.

Hello, this morning I testified to the State of Affairs Committee and Representative Bob Lynn asked me to send in my testimony. It is as follows.

Hi my name is Zabrina Byfuglien and I'm a junior at Tri-Valley school. I'm here with a few students from my government class, and we believe this there has been too much power vested in the federal government and not enough in the states. This is not how it should be. An example of the government taking away state sovereignty is in our education curriculum. Most of the decisions about this are made by the national government, when they should be being made by the state government, such as you folks in Juneau. I would like to address that this is what our founding fathers truly planned for our country. Here are a few quotes to show you.

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"Each state, in ratifying the Constitution, is considered as a sovereign body, independent of al others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a FEDERAL, and not a NATIONAL constitution."

This was cementing that the states will have rights after signing the constitution and can stay independent.

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This shows that Alexander Hamilton believed that the states should ALWAYS have sovereign power.

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This is saying thing that he federal government doesn't need to be brought into all if Alaska's business.

And lastly, from Thomas Jefferson is..

"When governments fear the people there is liberty. When the people fear the government there is tyranny."

This is what I'm afraid of. That our government will become too powerful and we will all end up fearing them. There should be more state sovereignty.

Thank you for allowing me to testify.

Rep. Tammie Wilson

From: isabellasaxe@dbsd.org
Sent: Friday, February 07, 2014 8:51 AM
To: Rep. Bob Lynn; Rep. Wes Keller; Rep. Lynn Gattis; Rep. Shelley Hughes; Rep. Doug Isaacson; Rep. Charisse Millett; Rep. Jonathan Kreiss-Tomkins; Rep. Tammie Wilson
Subject: State Affairs Committee Testimony: Isabella Saxe

Hello my name is Isabella Saxe and this is the testimony I read to the state affairs committee yesterday.

The primary opposition to this proposition to call a convention of states seems to be this fear of a runaway convention. And we would like to explain what has already been instituted to prevent this. Our country has been built on the principle that mankind is imperfect and we need checks and balances. Conventions of states are no exception to these checks. When we call for this convention, we are asking for it to be called with a limited scope of topics and issues we are to discuss, only after Congress receives 34 similar applications. Congress will then I specify the scope, ensuring that we don't stray from the issues we had planned, to also make sure that we don't come out with an amendment even remotely unrelated to what was proposed. If that were in some way to happen in spite of the previous checks, where out of this convention came an unrelated amendment, there's another check for that. It is congress's mandatory duty to deny ratification.

Ratification itself is even a check. 38 states must vote to ratify any amendments to the constitution. ratification is not an easy idea to sell.

When the state of Alaska sends delegates to this convention you can limit the amendments that our delegates can discuss. If they happen to go beyond their scope they can be recalled. If delegates going past the scope is still a concern you can do what indiana has done and pass legislation That puts controls on their delegates to an article 5 convention.

These conventions cannot make up their own rules, or change existing ones to make ratification an easier process. That's not the way the system is set up. The Founding Fathers clearly laid out what to do in times like these. and we are ignoring our duty as Americans when we ignore article 5. When we ignore the very directions we have a responsibility to carry out. When the government has plainly overstepped its boundaries, and burdened us with tremendous debt. We have the obligation to act. and speaking for the generation that will grow up in this country, we don't want to grow up amongst piles and piles of debt. Once again we are students of a government class in Healy Alaska. Thank you so much for your time.

Rep. Tammie Wilson

From: Nicole MacMaster <nicolemacmaster@dbsd.org>
Sent: Thursday, February 06, 2014 10:11 AM
To: Rep. Bob Lynn; Rep. Wes Keller; Rep. Tammie Wilson; Rep. Lynn Gattis; Rep. Jonathan Kreiss-Tomkins; Rep. Charisse Millett; Rep. Doug Isaacson; Rep. Shelley Hughes
Subject: Nicole MacMasters Testimony

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you for allowing me to testify at the states affairs committee after my testimony Representative Bob Lynn asked to send you all my written testimony, here it is.

Hi my name is Nicole MacMaster im a junior at try valley and I want to talk about the Regulatory, spending and debt crisis.

This is information from Joe Usibelle he is the owner of the Usibellie Coal Mine

Federal Government Passed a law that led to regulations, states can primacy and permit; air permit and water discharge originated at the federal level, now however its at the states., federal environmental EPA maintains on the federal level working over the shoulder of the state, and now the Federal Government needs abide by the state not the EPA. Involved in the EPA standards pm 2.15, threatened to take over, State has the ability to take away programs, through the EPA however its costly, time consuming and they absolutely have to keep up with all the regulations. Federal government department of the interior, is putting more pressure on states in interpret own regulations,. The government doesn't have to the right to tell the state what regulations to make, State regulators want to maintain a relationship with the federal government, but its hard. harm that the EPA does to the company; its extremely expensive, legal expenses are high, and recently the federal government has put more regulations on the states.

So I say the Government should keep their nose out of it, it should be run by the states.

Debt, our country is 17 trillion in debt to other nations, most of that debt is a result of out of conrtol federal government spending. What most people don't know is that in just the U.S we are 60 trillion in debt, that means that every single us citizen is about 193,000\$ in debt, I am sixteen and already owe the government more then going to an average college would cost.

There is a lot about the country debt that I don't understand I know that our country, what I have found out is that the USA is still the stabilizer for other states but unlike when nations held their own now its like a world nation, when other countries market crash ours lowers, and vise versa. if people are going bankrupt and cities are going bankrupt then will states then eventually our country.

at our dinner table if our budget is 0 then we cant do things that we want we don't have the power to just print more money and raise the debt ceiling. We need to start paying our debt or everyone is going to go bankrupt if we don't.

The Federal reserve purchases Treasuries from its member banks, using credit it created out of thin air. This has the same effect as printing money. It keeps interest rates low, avoiding the high-interest rate penalty the Federal government would usually impose for excessive debt.

Our government is out of control with its spending. The government is raking up so much debt its just going to become a huge financial mess for my generation. Its like a pile of dog poop laying on a beach, the government just keep pushing some sand over the top in order to cover it up but then when some one new comes along, my generation they gets a nasty foot full of dog poop. It is my hope that you will be able too leave feeling like you have left something behind that my generation can be proud to walk into, so I fully support Tammie Wilsons Resolution, thank you for your time. and allowing me to testify

-Nicole MacMaster

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WRITTEN TESTIMONY

NAME: Seymour M. Mills

REPRESENTING: Self

BILL # or SUBJECT: HJR 22

COMMITTEE: House Finance **DATE:** 2-12-14

I am EXTREMELY against this Resolution because it will result in a Constitutional Convention and a Con Con can NOT be limited to any particular legislation and WE WILL LOOSE THE WHOLE CONSTITUTION OF THE UNITED STATES.