SJR

18

<TARGET><BILL>SJR 18</BILL><SUBJECT>SJR
18</SUBJECT><COMM>SSTA28</COMM></TARGET>

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/5/14

Date of 5-Day Notice: 3-6-14
(in accordance with Uniform Rule 23)

FURTHER:

DATE TURNED IN TO OFFICE: 3-11-14

State Affairs Committee considered SENATE JOINT RESOLUTION NO. 18

SJR 18-FEDERAL CONSTITUTIONAL CONVENTION

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.

and recommends:

[ ] be **replaced** with **CS** _____ (_____) *[ ] Same Title [ ] New Title*

[ ] adopt **previous CS** _____ (_____) *[ ] Same Title [ ] New Title*

[ ] attached amendment(s)

[ ] adopt _____Letter of Intent

[ ] further referral to _____Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
S. STA			✓	1

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

[ ] **APPROPRIATION - no fiscal note**

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Wiechowski				✓
	Coghill	✓			
	Wessel	✓			
CHAIR:	Dyson	✓			

SENATOR FRED DYSON

Sponsor Statement

Senate Joint Resolution 18

"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."

Our Founding Fathers were adamantly opposed to an excessively strong central government. Based on experience, they believed that tyranny would be the likely result of a governing entity whose power and control extended deep into the subjects whom it presided over. In hopes to prevent even the mere possibility of such tyranny, our founding fathers solidified several checks and balances to protect the rights of states and citizens from encroachment by the federal government. One such feature granted to the states is in Article V of the Constitution.

Article V of the United States 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."

The state application and convention process was not inserted in the Constitution merely to lengthen text. It was an immensely important component in the federal balance between states and central government. In the words of James Madison, the process was the ultimate constitutional way for curbing an abusive or out of control federal government and a way to stave off the darkness of tyranny.

Senate Joint Resolution 18 calls for Alaska to make application to exercise its right granted in Article V of the Constitution. SJR18 is Alaska's formal application calling for a state convention to address the topic of "imposing 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" which are the contemporary issues of a governing entity extending power and control deep into those whom it presides over. Further, the resolution urges the other states of our fine union to embark upon the same processional.

It is the duty and the right of the states to maintain the liberty and freedom to which our nation has become accustomed to. When there is a threat to our liberty and freedoms, it is the duty of the state to act accordingly within the realm of the Constitution. This resolution is a calling, a calling for a great solution to a great problem.

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FISCAL NOTE

STATE OF ALASKA
2014 LEGISLATIVE SESSION

Bill Version: **SJR 18**
Fiscal Note Number:
() Publish Date:

Identifier (file name):
Title: SJR 18 FEDERAL CONSTITUTIONAL CONVENTION
Sponsor: Senator Dyson
Requester: (S) State Affairs

Dept. Affected:
Appropriation:
Allocation:
OMB Component Number:

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY15 Appropriation Requested	Included in Governor's FY15 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY15**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
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		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1007	I/A Rcpts (Other)							
1156	Rcpt Svcs (DGF)							
		0.0	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY14) operating costs _____ *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY15) costs _____ *(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? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by: (S) State Affairs
Division:
Phone: 465-2199
Date/Time: 3/5/14 10:00 AM

Approved by: Senator Dyson, Chair
Division:
Date: 3/5/2014

(Revised 8/16/2013 OMB)

IV. The State Application and Convention Process: Step-By-Step

A. *Making an application.*

What is an application? A state legislature seeking an amendments convention adopts a resolution called an "application." The application should be addressed to Congress. It should assert specifically and unequivocally that it is an application to Congress for a convention pursuant to Article V. The resolution should not merely request that Congress propose a particular amendment, nor should it merely request that Congress call a convention. An example of effective language is as follows:

> 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 . . .

Who may apply? The Constitution grants the right to apply exclusively to the state *legislatures*. Applications need not be signed by the governor, and may not be vetoed, anything in the state constitution or laws notwithstanding. Moreover, applying cannot be delegated to the people via initiative or referendum, anything in the state constitution or laws notwithstanding. However, the signature of the governor does not invalidate an application, nor does an initiative or referendum that is purely *advisory* in nature.

The scope of the convention sought. A legislature may apply for an open convention—that is, not limited as to subject matter. Such an application might read:

> 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 for proposing amendments to the Constitution.

Few people, however, are interested in an open convention or in a convention for the sake of a convention. Generally, the goal is to advance amendments of a distinct type, with the convention limited to that purpose. An application for a limited convention might read:

> 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 an amendment to the Constitution of the United States requiring [*here state general nature of the amendment*].[8]

Although applications may limit a convention to one or more subjects, the existing case law *strongly* suggests that an application may not attempt to dictate particular wording or rules to the convention nor may the application attempt to coerce Congress or other state legis-

latures. As the courts have ruled repeatedly, assemblies (Congress, state legislatures, and conventions) are entitled to some deliberative freedom when involved in Article V procedures. An application may *suggest* particular language or rules for the convention, but to avoid confusion, suggestions should be placed only in separate, accompanying resolutions.

Some applications, while not attempting to impose specific language on the convention, attempt to dictate the details of the amendment's terms. The more detail the application mandates, the more likely a court will invalidate it as attempting to restrict unduly the convention's deliberative freedom. Additionally, the more terms an application specifies, the less likely it will match the terms of other applications, resulting in congressional or judicial refusal to aggregate them together toward the two-thirds threshold.

Thus, a pair of rules governs legislatures applying under Article V: (1) They may limit the subject matter of the convention but (2) they may not dictate particular wording. These boundaries make sense if you think of the convention as what it really is: A committee or task force charged with solving designated problems. When charging a task force in business or government, you inform its members of the problems you want them to address. You don't tell them to investigate anything they wish. Additionally, once you have given the task force an assignment, you don't dictate a solution. To serve its purpose the task force has to be free to consider different solutions. Otherwise there would be no good reason for the task force.

In summary, please note:

- An "application" is a state legislative resolution directing Congress to call a convention for proposing one or more amendments.
- Applications may limit the scope of the convention to particular subject matter.
- Applications may recommend, but not dictate, particular wording to the convention.
- Applications setting forth detailed terms for the amendment are inadvisable both on legal and practical grounds.
- Recommendations are best stated in accompanying resolutions.

B. *How long does an application last?*

An application probably lasts until it is duly rescinded. Some have argued that older applications grow "stale" after an unspecified time and lose their validity. However, this argument probably does not have merit. The power to rescind continues until the two-thirds threshold is reached, or perhaps shortly thereafter.[9]

An application probably may provide that it is automatically terminated as of a particular date or on the occurrence of a specific event—as long as the terminating condition is not an effort to coerce Congress, other states, or the convention. Thus, a provision is most likely valid if it says, "This application, if not earlier rescinded, shall terminate on December 31, 2015." Also valid would be this language: "This application, if not earlier rescinded, shall be null and void if Congress shall propose a balanced budget amendment to the U.S. Constitution." On the other hand, courts may deem some kinds of automatic terminations to be coercive, and therefore void. A clear example would be a provision automatically terminating the application unless the convention followed specified rules or adopted an amendment in specified language.

C. *The applications in Congress and the "call."*

"Aggregation" of applications. When 34 state legislatures have submitted applications on the same subject,

the Constitution *requires* Congress to call a convention for proposing amendments. Both the historical and legal background of Article V and modern commentary clarify that the congressional role at this point is merely "ministerial" rather than "discretionary." In other words, the Constitution assigns Congress a routine duty it must perform. It is important to note, however, that congressional receipt of 34 applications is not sufficient; those applications must relate to the same subject matter.

Historically some members of Congress have tried to find excuses for avoiding any duty to call a convention.[10] One possibility is that Congress may refuse to "aggregate" toward the two-thirds threshold any applications that try to dictate to the convention different ways of solving the same problem. Thus, if 17 states have applied for a clean balanced budget amendment and another 17 have applied for a balanced budget amendment with a requirement of a two-thirds vote to raise taxes, Congress may refuse to treat both groups as addressing the same subject. The more differences exhibited by the applications, the more justification Congress will have in refusing to aggregate them.

One way to forestall such obstruction is to specify in the application that it be aggregated with certain other state applications. For example, an application may include the following language:

> This application is to be considered as covering the same subject matter as any other application for a balanced budget amendment, irrespective of the terms of those applications, and shall be aggregated with them for the purpose of reaching the two thirds of states necessary to require the calling of a convention.

An alternative might be to name applications already submitted by other states:

> This application is to be considered as covering the same subject matter as presently-outstanding balanced budget applications from Nebraska, Kansas, and Arkansas, and shall be aggregated with them for the purpose of reaching the two-thirds of states necessary to require the calling of a convention.

This process is for the states, not Congress. In the past, well-meaning members of Congress have introduced bills to resolve issues that properly are for the state legislatures or for the convention to resolve. If adopted, these bills would have dictated how delegates are selected, how many delegates each state may have at the convention, and what voting and other rules the convention must follow.

That kind of legislation is probably unconstitutional for several reasons. First, congressional efforts to control the convention would handicap its fundamental purpose as a mechanism for the *states* to amend the Constitution without interference from Congress. Also, the historical record shows that such provisions exceed the scope of what the Constitution means by "calling" an interstate convention. The power to "call" an interstate convention authorizes Congress only to count and categorize the applications by subject matter, announce on what subjects the two-thirds threshold has been reached, and set the time and place of the convention. Arguably, Congress may also designate a presiding officer to serve until the convention elects its own. Any further prescriptions by Congress exceed the scope of powers reasonably incidental to the constitutional power to "call."[11]

D. *Delegate selection.*

As noted above, the Founders modeled the interstate convention on international diplomatic practice. As in diplomatic meetings, each sovereignty decides how to select its own delegation or "committee" and how many to send. The records of the Founding-Era interstate conventions tell us that states selected delegates in any of several ways:

(1) Election by one house of the state legislature, subject to concurrence by the other, with a joint committee negotiating any differences;

(2) Election by joint session of both houses of the state legislature;

(3) Designation by the executive;

(4) Selection by a designated committee.

Moreover, when selecting delegates to the Confederation Congress (which, strictly speaking, was a legislative body rather than a convention), Rhode Island provided for direct election by the people.

Of the foregoing methods, the most popular way for choosing convention delegates probably was legislative joint ballot.

Election by legislative joint ballot has several advantages in addition to the weight of precedent. First, it makes sense for the legislature to select delegates who serve as legislative agents subject to legislative instruction and removal. Second, joint ballot elections are less prone to deadlock than election by each chamber seriatim. Third, because the applications and legislative instructions will define the policy behind the amendment, the delegates' role at the convention is primarily to serve as a legal drafting committee, calling for technical abilities and diplomatic skills.

E. *The Convention.*

All states, not merely the applying states, are entitled to send delegations to a convention for proposing amendments. Moreover, an amendments convention is, as James Madison once asserted, "subject to the forms of the Constitution." In other words, it is not "plenipotentiary" (or "constitutional") in nature. Accordingly, a convention for proposing amendments has no authority to violate Article V or any other part of the Constitution. According to the rules in Article V, the convention may not propose a change in the rule that each state has "equal Suffrage in the Senate,"[12] nor may it alter the ratification procedure.[13]

Prior rules and practice governing interstate conventions show that conventions must honor the terms of their call and limit themselves to the scope of the subject matter they are charged with addressing. The scope of the subject matter is set by the scope of the 34 or more successful applications, and ideally Congress should reproduce that scope in its call.

Delegates to American conventions generally have had power to elect their own officers and adopt their own rules, and this has been universally true of interstate conventions. These rules include the standards of debate, daily times of convening and adjourning, whether the proceedings are open or secret, and other matters of internal procedure. Interstate conventions always have determined issues according to a "one state/one vote," although a convention is free to change the rule of suffrage. The convention also may limit how many delegates from each state can occupy the floor at a time.

Like other diplomatic personnel, convention delegates are subject to instruction from home—in this case from the legislature or the legislature's designee. The designee could be a committee, the executive, or another person or body. Although state applications cannot specify particular wording for an amendment, a state could instruct its delegates to not agree to any amendment that did not include particular language. In accordance with Founding Era practice and the convention's purpose, each state should pay its own delegates.

The convention may opt to propose one or more amendments within the designated subject matter or it may adjourn without proposing anything. Unless altered by convention rule, proposal requires only a majority vote. Some have argued that a formal proposal requires a two thirds convention vote—or that Congress may impose such a rule—but there is nothing in law or history to support this argument.

The Constitution does not require that a proposal be transmitted to Congress or to any other particular entity; the proposal is complete when the rules of the convention says it is. Because Congress must choose a mode of ratification, however, the convention should officially transmit the proposal to Congress.

Once amendments are proposed or the delegates decide not to propose any, the purpose of the convention has been served, and it must adjourn.

In summary, please note:

- All states send "committees" to the convention in accordance with state law.
- The convention elects its own officers and sets its own rules.
- Initial suffrage is one state/one vote with decisions made by a majority of states, but the convention may change both rules.
- The convention must follow the rules of the Constitution, including those in Article V. The convention cannot change the ratification procedure.
- The delegates must remain within the charge as set by the applications and (derivatively) by the congressional call.
- Within the charge and during the convention, each committee is subject to instruction from its home state legislature or the legislature's designee and is subject to recall as well.
- Within the charge, the delegates may propose one or more amendments, or may propose none at all.
- Once that decision is made, the convention must adjourn.

F. *Ratification.*

In general, ratification of convention-proposed amendments is the same as for congressionally-proposed amendments.

If the convention validly proposes one or more amendments, Article V *requires* Congress to select one of two "Mode(s) of Ratification" for each. Congress may decide that the amendments be submitted to state conventions elected for that purpose (the mode selected for the 21st Amendment, repealing Prohibition) or to the state legislatures (the mode selected for all other amendments). The obligation of Congress to select a mode should be enforceable judicially, but it is completely up to Congress which of the two modes it chooses. Neither the applying state legislatures nor the convention may dictate which mode Congress selects.

Of course, the obligation of Congress to choose a mode depends on the measure qualifying as a valid "proposal." A proposal would not be valid if, for example, it exceeded the scope of the subject matter defined by the applications or if it altered equal suffrage in the Senate or the Constitution's rules of ratification. Congress would be under no obligation to select a mode for such a "proposal," nor would it have the legal right to do so.

The Case for the Convention of the States

1. Washington DC is Out of Control and Will not Relinquish Power.

The Spending and Debt Crisis

Thomas Jefferson wrote in 1816, "I...place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared." Congress has ignored these words. Instead, it has abused its power, using entitlement programs to gain votes and catapult the United States into massive debt.

The $17 trillion national debt is staggering, but it only tells a part of the story. If we apply the normal rules of accounting, the federal government possesses a huge additional obligation to pay for vested Social Security benefits and other similar programs. This is why the government cannot tax its way out of debt. Even if they confiscated everything, it would not cover the debt.

The judiciary recites the mantra that the powers of the federal government are limited. The plain fact, however, is that since 1936 no federal court has ruled a Congressional program unconstitutional for exceeding their power to tax and spend for a particular purpose.

Stopping the runaway federal spending is the only solution, but it is one thing Washington, D.C., will never agree to do.

The Regulatory Crisis

Congress and, more importantly, the federal bureaucracy have placed a regulatory burden upon businesses that is complex, conflicted, and crushing. Furthermore, little political accountability exists when agencies—rather than Congress—enact the real substance of the law. Research from economists John Dawson (Appalachian State University) and John Seater (North Carolina State University), reported by the American Enterprise Institute, shows that since 1949 federal regulations have lowered the real GDP growth by 2% and made America 72% poorer.

Congressional Attacks on State Sovereignty

Congress has been taking money from the citizens of states, and then offering that money back to states on the condition that legislators follow the will of Congress. Using these federal grants accompanied by mandates (which are rarely fully funded), 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 to protect peoples' rights, we have missed one of the most important principles of the American founding.

Who Has the Legitimate Power to Make Law?

The Founders believed that the structures of a limited government would provide the greatest protection of liberty. There were to be specific enumerated powers which the government could not exceed. 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.

Collusion among decision-makers in Washington, D.C., has replaced these checks and balances. And the federal judiciary supports Congress and the White House in its ever-escalating attack upon the jurisdiction of the fifty states.

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 another 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).

Those in Washington, D.C., accept as "Truth" the necessity of expanding the role of all three branches of the federal government. Congress enacts laws that are beyond the powers delegated to them by the Founders in the text of the Constitution. The President signs such laws, and the Supreme Court adopts manipulative interpretations of the Constitution to uphold the expansion of federal power.

In 1936, the Supreme Court warned what would happen if we adopt a broad approach for federal spending and control:

> If the spending power is to be limited only by Congress' notion of the general welfare, the reality, given the vast financial resources of the Federal Government, is that the Spending Clause gives 'power to the Congress to tear down the barriers, to invade the states' jurisdiction, and to become a parliament of the whole people, subject to no restrictions save such as are self-imposed.
>
> *United States v. Butler,* 297 U.S. 1, 78 (1936).

That was the last time any federal court invalidated a law on the basis that it was an unconstitutional exercise of the power to spend.

It is the runaway spending via the General Welfare Clause that has resulted in today's crushing debt. George Washington advised, "[avoid] likewise the accumulation of debt, not only by shunning occasions of expense, but by *vigorous exertions in time of peace to discharge the debts* which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear." We are watching the exact opposite of George Washington's wishes for this country. Liberty is eroding while debt is escalating.

This is not a partisan issue. Washington DC 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 merely bad policy. It is immoral.

2. The Founders Gave us a Solution: A Convention of the States

> 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, Governor 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)

There are two methods to propose amendments to the Constitution. Congress is in a perpetual "convention" with the power to propose amendments to the Constitution. The reality, however, is that Congress will never propose an amendment that reduces the power of Washington. That is why the Founders developed a second method to propose amendments.

The Founders knew the federal government might one day become drunk with the abuses of power. The most important check to this power is the Article V provision that gives the states the ability to call a convention for the purpose of proposing amendments to the Constitution.

By calling a Convention of the 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 moral duty to use. Thirty-four state legislatures can propose a return to liberty by passing resolutions containing an application for a Convention of the States. Then the states can hold a convention where amendments can be proposed and debated. Ultimately, amendments that are approved in such a convention can be sent to the 50 state legislatures for ratification. Congress has no ability 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 we choose?

3. How Our Proposal Differs From Other Article V Plans

Rather than calling a convention for a particular amendment, Citizens for Self-Governance (CSG) has launched the Convention of the 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 a particular 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.

While the national debt is a crisis of the first magnitude, in many ways it is the symptom rather than the disease. The disease is an improper allocation of power with Washington, D.C., believing its power has no limits. A Convention of the 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.

State applications for a Convention of the States establish a rule of germaneness that will govern the convention. If the applications designate "a balanced budget" as the subject matter, the convention would be limited to drafting that specific amendment. But if the applications call for a convention dedicated to the subject of reducing the jurisdiction and power of the federal government, then only amendments on that subject matter would be germane on the floor of the Convention.

The following are examples of amendment topics that would be germane at a Convention of the States:

- A balanced budget amendment
- A redefinition of the General Welfare Clause (the original view was that the federal government could not spend money on any topic within the jurisdiction of the states)
- A redefinition of the Commerce Clause (the original view was that Congress was granted a narrow and exclusive power to regulate shipments across state lines—not all of the economic activity in the nation)
- 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 term limits on Congress and the Supreme Court
- Placing an upper limit on federal taxation
- Requiring a sunset of all existing federal taxes and a super-majority vote to replace them with new, fairer taxes

It is important to emphasize that these are merely examples of what would be germane. It would be the Convention of the States itself that would determine which ideas deserve serious consideration, and it will take a majority of votes from the states to formally propose any amendments. All amendments to be discussed and ultimately proposed for ratification, however, will be limited to the subject matter of the applications—reducing the power and jurisdiction of Washington DC.

All existing Article V efforts to reduce the power of Washington, D.C., are aimed at particular amendments. Every one of these ideas would be germane at a Convention of the States under the application that CSG has prepared. Mark Levin, who is not only a well-known talk show host but a fine constitutional scholar as well, has recently begun to advocate the calling of a Convention of the States for a group of amendments that he calls the "Liberty Amendments." Of his 11 proposed amendments, 10 would be germane at the Convention of the States using the CSG model application.

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 legitimate state governments to impose binding restraints on the federal government. We must use the power granted to the states in the Constitution.

4. Our Political Plan to Call a Convention of the States

We have built our plan upon the premise that our ultimate goal is to ratify one or more amendments to curtail the abuse of power by the federal government. Thirty-eight states are required to successfully ratify a constitutional amendment.

Thus, we must have a viable political operation that is active in at least 38 states. The CSG strategy views 40 states as the minimum number for an effective political operation.

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. If one of the existing proposals (such as the Balanced Budget applications, which CSG also endorses) achieved 34 valid applications, we would have to build a current grassroots political operation in all the states that passed their Balanced Budget applications years ago.

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 the States.

Initially, we will focus on 40 states, which have approximately 4000 state house districts. Our goal is to have a viable political operation in at least 3000 of these districts. As it should be, and has always been, local organization will prove to be the best solution to our national crisis.

Our related 501 (c)(4) organization will have 3000 district captains who will organize at least 100 people in each district to contact their legislator to support a convention of the states, and turn out at least 25 people per district at legislative hearings. Legislators can know that if they support a Convention of the States, that our grassroots team will have their backs.

The thing that has been missing from the Article V movement is a widespread grassroots organization. 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 joining him on this project, who is the founder of the Home School Legal Defense Association and brings with him over 30 years of grassroots leadership and activism in all 50 states. We are rapidly building not only a staff for this project, but networking with like-minded coalition members who will support this project once they see it up and running.

Other approaches have their advantages. We believe our proposal has the advantages that motivate us to proceed in this fashion. All existing proposals for amendments would be germane under our model application for a Convention of the States. We will work cooperatively with all those who seek to use this process to curtail the abuse of power by Washington, D.C.

5. Why a Convention of the States is the Safest Alternative to Preserve our Liberty

We all know that Washington, D.C., is ignoring the Constitution and is on a path that will continue to destroy our liberty. We contend that a Convention of the States is the only constitutional solution to the runaway government in Washington—the only solution that can restore our liberty and preserve it for posterity. Opponents of the Convention of the States process often argue that such a convention could result in a runaway convention that would radically rewrite our Constitution.

We respectfully suggest one proper way to analyze these competing claims: *Which scenario is more likely to actually happen?*

The most common objection to an Article V convention envisions a doomsday scenario in which delegates disregard the original issue, rewrite the Constitution, and change the entire American system of government. Here are the facts:

1. 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.* This establishes a clear, strong legislative single-subject precedent that would almost certainly be declared binding in the event of a court challenge.

2. In prior Article V litigation it was established that improper changes to the process can be legally challenged by state legislators. This case also 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—the last major Article V case in U.S. history.

3. Most importantly, ratification of any proposed amendment requires the approval of 38 states. It only takes 13 states to vote "no" to defeat any proposed amendment, and the chances of 38 state legislatures approving a rogue amendment are effectively zero.

4. Finally, most opponents of the Convention of the 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. (See the full article in the Appendix: "Was the Constitution Illegally Adopted?"). It defies logic to declare oneself a "defender" of the Constitution while arguing at the same time that it was illegally adopted.

There a multiple lines of defense against a state attempting to pass 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 political certainty that at least 13 states would defeat any such proposed amendment; (4) It is an historical fallacy to argue that we have an established precedent of Conventions changing the rules illegally.

Thus, we are left to evaluate the relative safety of two choices: 1. Allow Washington, D.C., to continue to abuse the Constitution and the rights of the people with the vague hope that someday Washington will see the light and relinquish power. 2. Call a Convention of the States and trust it will behave properly, and that one of the many lines of defense will stop any misuse of the power.

We must evaluate which group is more likely to abuse power: Washington, D.C., or a Convention of the States. That is an easy question to answer. The Convention of the States is clearly the safest alternative.

6. Steps of Action for Legislators

To call a Convention of the States, 34 state legislatures must pass applications on the same subject matter. Governors play no 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 such 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. While constitutional scholars, legislators, and citizen activists have reviewed this, we will continue to accept comments until November 1, 2013. At that time we will be circulating a final version of the Model Application to all supporting state legislators.

7. Steps of Action for Citizens

Ultimately, the success of an Article V convention depends on the citizens of the United States. Volunteers 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.

There are five basic opportunities for citizens who wish to preserve our liberty through a Convention of the States.

1. Volunteer to contact your legislators to support a Convention of the States.
2. Volunteer to attend a legislative hearing to support a Convention of the States.
3. Agree to volunteer for the next campaign for a legislator/candidate who supports a Convention of the States.
4. Donate to candidates/legislators who support a Convention of the States.
5. Donate to CSG to support this project.

Citizens can find more information at www.conventionofstates.com or www.selfgovern.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.

Alaska States Legislature Applications for Article V of the States (33 year scope: 1981-2014)

- **1981-1982**
  - **HJR-17** "relating to an amendment to the Constitution of the United States which would require that total federal appropriations not exceed total estimated federal revenues in a fiscal year in the absence of a national emergency."
- **1991-1992**
  - **SJR-6** "Relating to an amendment to the Constitution of the United States prohibiting desecration of the Flag of the United States."
- **1993-1994**
  - **SJR-35** "Relating to an amendment to the Constitution of the United States setting out the authority of the United States Congress and of state legislatures to enact laws relating to limits on election campaign expenditures."
- **1995-1996**
  - **SJR-4** "Relating to an amendment to the Constitution of the United States setting out the authority of the United States Congress and of state legislatures to enact laws relating to limits on election campaign expenditures."
  - **SJR-5** "Supporting an amendment to the Constitution of the United States establishing the rights of victims of crimes." (Cites Article V in body as a means to achieve the end)
- **1997-1998**
  - **HJR-64** "Calling for a Convention of the States on term limits"
  - **SJR-4** "Calling for a Convention of the States with regards to campaign contribution limits"

- **2011-2012**

  - **HJR-30** "Representative Keller - Constitutional Convention to propose amendment for raising federal debt limit"

- **2013-2014**

  - **HJR-22** "Representative T. Wilson - Companion Convention of the States proposal to this resolution."

  - **HB-284** "Representative Keller - "An Act relating to an interstate compact on a balanced federal budget."

  - **SJR-18**

States That Have Filed, Pre-Filed, or are Acting on a COS application

State	Bill #
Alabama	HJR 49
Alaska	HJR 22
Arizona	HCR 2027
Florida	SM 0476
Georgia	SR 736
New Mexico	HJR 2
Oklahoma	HJR 38
South Carolina	H 4372
South Dakota	HJR 1005
Virginia	HJ 9
West Virginia	HCR 86

What Sorts of Amendments?

The following are examples of amendment topics that could be discussed at a convention of states under the topic of amendments 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":

- A balanced budget amendment
- A redefinition of the General Welfare Clause (the original view was the federal government could not spend money on any topic within the jurisdiction of the states)
- A redefinition of the Commerce Clause (the original view was that Congress was granted a narrow and exclusive power to regulate shipments across state lines--not all the economic activity of the nation)
- 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 Congress is supposed to be the exclusive agency to enact laws)
- Imposing term limits on Congress and the Supreme Court
- Placing an upper limit on federal taxation
- Requiring the sunset of all existing federal taxes and a super-majority vote to replace them with new, fairer taxes

Of course, these are merely examples of what would be up for discussion. 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.

Any amendment adopted by the convention will be selected by Congress to be ratified by ¾ or 38 of the 50 in two fashions:

1. **By state legislatures**
2. **By state convention (in the manner for the 21st Amendment which repealed Prohibition)**

SJR-18 calls for Alaska to embark on the process for an Article V convention. The convention is aimed at remedying the inherent over imposition of the Federal government that exists in this day and age.

Ronald Reagan on January 20, 1981 in his inaugural address stated:

"We are a nation that has a government–not the other way around. And this makes us special among the nations of the Earth. Our government has no power except that granted it by the people. It is time to check and reverse the growth of government, which shows signs of having grown beyond the consent of the governed. It is my intention to curb the size and influence of the Federal establishment... Now, so there will be no misunderstanding, it's not my intention to do away with the government. It is rather to make it work–work with us, not over us; to stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it."

KENAI LEGISLATIVE INFORMATION OFFICE

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Phone: **907-283-2030** / Fax: **907-283-3075**

WRITTEN TESTIMONY

NAME: WILLIAM JUSTICE

REPRESENTING: myself & FUTURE GENERATIONS

BILL # or SUBJECT: SJR 18

COMMITTEE: SENATE STATE AFFAIRS **DATE:** 3-11-14

I STRONGLY SUPPORT and ASK FOR PASSAGE FOR THE CONVENTION OF STATES. THIS APPEARS TO BE OUR LAST PEACEFUL RECOURSE. SO PLEASE PASS SJR 18.

THANK YOU

Wm Just.

Gayle Keller

From: Mike Coons <mcoons@mtaonline.net>
Sent: Tuesday, March 11, 2014 8:26 AM
To: Sen. Fred Dyson; Sen. Cathy Giessel; Sen. Kevin Meyer
Subject: SJR 18 Testimony

My name is Mike Coons from Palmer and I'm speaking as a Director for Alaska, Citizen Initiatives.

I support the proper use of Article V of the US Constitution, SJR 18 is on the right track but has some issues.

"On the application fo the legislatures of 2/3rds of the several states, shall call a convention for proposing Amendments" SJR 18 is making calls for subjects or now as COS is calling it, a "Topical Convention". Thus questions to be asked and answered prior to passage of SJR 18:

1. Who is going to write the amendments that come from the "subjects/topics"?

2. Will those amendments be written by the Legislature prior to the convention or will the delegates have the "authority" to write any an all amendments that fall within the broad "subjects/topics"?

3. Who is the deliberative body, the State Legislature or the Delegates?
State Legislators must not abdicate their Article V sovereignty to delegates at a Convention.

4. Will there be written instructions that make the convention a Republican Convention as per Article I, Section 4, thus one State one vote and will this be agreed upon prior to the convention with the other States? If not, does this come down to all delegates vote, which puts us behind the power curve with just about every State on population size and number of delegates. How will you, the Legislature assure within this resolution one state one vote?

5. Will the delegates be bound to the legislature or free agents or with some restrictions but able to negotiate and write amendments for the legislature?

These are the most serious issues with this resolution. The related issue is that since these are "subject/topical" vs "amendments" will Congress turn down this call due to not meeting the requirements of Article V? If you look at previous calls, all have been for a specific amendment, no where in the history of calls that I have researched have any been by subject or topic and all have been single issue amendments.

These issue must be resolved prior to passing out this resolution since if this gets to a convention, these issues will arise and may very well have major negative impacts and what amendments written will not be ratified.

Lastly Citizen Initiatives has calls for specific, single issue amendments, proposed specific amendments that the Legislature would pre-approve and a delegate resolution that will ensure one State, one Vote as well a Delegate Resolution that makes the convention safe, predicatable
and results in an amendment that has a excellent chance of ratification.
For those aspects go to https://countermands.us/home.html

Mike Coons
Regional Directior, Ciizen Initiatives
7454-6779

KENAI LEGISLATIVE INFORMATION OFFICE

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WRITTEN TESTIMONY

NAME: Seymour Mills

REPRESENTING: Self

BILL # or SUBJECT: SJR 18

COMMITTEE: Senate State Affairs **DATE:** 2-27-14

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.