

SCR

4

<TARGET><BILL>SCR 4</BILL><SUBJECT>SCR
4</SUBJECT><COMM>SFIN29</COMM></TARGET>

ALASKA STATE LEGISLATURE



Chair:
Senate State Affairs Committee

Member:
Resources Committee
Health & Social Services Committee
Finance Subcommittees on:
Department of Fish and Game
Department of Administration
Department of Public Safety

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Sponsor Statement for *Senate Concurrent Resolution 4*

Recent actions taken by the Federal Government constitute an unprecedented level of overreach in Alaska.

SJR 15 and SCR 4 seek to restore the balance of power between the states and federal government. The pair of resolutions would strengthen state sovereignty by providing states with veto (countermand) power over federal decisions deemed not in their best interest by establishing an amendment to the U.S. Constitution. These two resolutions in tandem are intended to start the process of amending the US Constitution via the powers granted in Article V.

SJR 15 (The Application) provides Alaska's call to Congress for a clearly defined, single-issue Countermand Amendment Convention. The Countermand Amendment to the United States Constitution, when ratified, will allow states to propose Countermand Initiatives, which upon approval by three-fifths of the state legislatures, will repeal any federal statute, executive order, judicial decision, or regulatory decision listed in the Initiative.

SCR 4 (The Delegate Resolution) enables the state legislature to institute parameters for the convention, ensuring that a "runaway convention" is not possible, and provides for a productive, safe and timely process. The Delegate Resolution establishes a Credential Committee for selection of delegates to the convention, and outlines the duties of the delegates. SCR 4 also includes the language of the proposed Countermand Amendment to the U.S. Constitution.

These two resolutions do not pertain to a conservative versus liberal agenda; this is a state versus federal issue. Passage of these resolutions is an actionable step the Legislature can take toward restoration of the proper balance of state and federal powers.

DISTRICT F

BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP • GREATER PALMER
KNIK RIVER ROAD • LAZY MOUNTAIN • GATEWAY • PETERS CREEK

HCR 5 - AS INTRODUCED

2015 SESSION

15-0799
05/04

HOUSE CONCURRENT RESOLUTION **5**

A RESOLUTION calling for an article V convention for the purpose of considering a countermand amendment to the United States Constitution.

SPONSORS: Rep. Ulery, Hills 37

COMMITTEE: Legislative Administration

ANALYSIS

This resolution calls for an article V convention for the purpose of considering a countermand amendment to the United States Constitution.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

A RESOLUTION calling for an article V convention for the purpose of considering a countermand amendment to the United States Constitution.

1 Whereas, all governing power under the United States Constitution originates from the people
2 and the states; and

3 Whereas, the United States Constitution delegates certain limited powers to the legislative,
4 executive, and judicial branches of the federal government; and

5 Whereas, the tenth amendment to the United States Constitution reserves all non-delegated
6 powers to the states and the people; and

7 Whereas, the United States Congress has, at times, exceeded its delegated powers and otherwise
8 passed laws injurious to the states and the people; and

9 Whereas, the President of the United States has, at times, exceeded the executive's
10 constitutional authority and taken actions injurious to the states and the people by issuing certain
11 executive orders, failing or refusing to enforce certain laws duly passed by Congress, issuing waivers
12 from compliance with federal statutes, and directing federal administrative agencies to impose rules
13 and regulations contrary to federal statutes; and

14 Whereas, federal courts have, at times, exceeded their authority by issuing decisions not
15 grounded in the United States Constitution, by issuing decisions on public policy matters reserved to
16 the states in violation of principles of federalism and separation of powers, and otherwise issuing
17 decisions injurious to the states and the people; and

18 Whereas, federal administrative agencies have, at times, issued rules and regulations beyond
19 their statutory authority and have otherwise issued rules and regulations or taken other actions
20 injurious to the states and the people; and

21 Whereas, article V of the United States Constitution states: "The Congress, whenever two thirds
22 of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the
23 application of the legislatures of two thirds of the several states, shall call a convention for proposing
24 amendments, which, in either case, shall be valid to all intents and purposes, as part of this
25 Constitution, when ratified by the legislatures of three fourths of the several states; and

26 Whereas, article V of the United States Constitution reserves to the states and the people a final
27 check on the usurpation, misuse, or abuse of federal power; and

28 Whereas, the states have the sole authority to define and limit the agenda of a convention of the
29 states and may limit the agenda to adoption of a single proposed amendment to the United States
30 Constitution; and

31 Whereas, under authority of article V of the United States Constitution, the several states should
32 apply to Congress to call a convention of the states for the sole purpose of proposing and adopting a

HCR 5 - AS INTRODUCED

- Page 2 -

1 countermand amendment to the United States Constitution; and

2 Whereas, a countermand amendment to the United States Constitution would authorize the
3 states, upon a vote by three-fifths of the state legislatures to override and invalidate a congressional
4 statute, executive order, federal court decision, or administrative agency rule, regulation, or other
5 action deemed injurious to the states and the people; and

6 Whereas, the states, by adopting a countermand amendment, properly exercise their
7 constitutional authority to check federal power, preserve state sovereignty, and protect the rights of
8 the states and the people; and

9 Whereas, delegates to a convention of the states called for the sole purpose of considering and
10 adopting a countermand amendment to the United States Constitution would be prohibited from
11 considering any other amendment or change to the Constitution; now, therefore be it

12 Resolved by the House of Representatives, the Senate concurring:

13 That the New Hampshire general court, under the authority of article V of the United States
14 Constitution, hereby applies to Congress to call a convention of the states for the sole purpose of
15 considering and adopting a countermand amendment to the United States Constitution, with the
16 delegates to such convention prohibited from considering any other amendment or change to the
17 Constitution; and

18 That the general court strongly urges the other state legislatures each to pass a similar
19 resolution applying to Congress to call a convention of the states for the sole purpose of considering
20 and adopting a countermand amendment to the United States Constitution; and

21 That the general court directs that Congress call a convention of the states, for the sole purpose
22 of considering and adopting a countermand amendment, within 60 days after receiving the 34th
23 state application for such convention; and

24 That the house clerk send a copy of this resolution to the leader of each legislative house in each
25 of the other states, the Majority Leader of the United States Senate, the Speaker of the
26 United States House of Representatives, the President of the United States, the Chief Justice of the
27 United States Supreme Court, and the members of New Hampshire's congressional delegation.

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HOUSE JOINT RESOLUTION 13
52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015
INTRODUCED BY
Yvette Herrell

A JOINT RESOLUTION
CALLING FOR A FEDERAL CONSTITUTIONAL CONVENTION TO PROPOSE A
COUNTERMAND AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

WHEREAS, the United States congress has, at times, exceeded its delegated powers, the president of the United States has, at times, exceeded the constitutional authority of the office of the president of the United States, and the federal courts have, at times, exceeded their authority by issuing decisions on public policy matters reserved to the states in violation of the principles of federalism and separation of powers, all of which have adversely affected the state of New Mexico and its people; and

WHEREAS, under the authority of Article V of the United States constitution, the several states should apply to the United States congress to call a convention of the states to

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1 amend the United States constitution and adopt a countermand
2 amendment to authorize the states, upon a vote of three-fifths
3 of the state legislatures, to nullify and repeal a federal
4 statute, executive order, judicial decision, regulatory
5 decision by a federal government agency or government mandate
6 imposed on the states by federal law that adversely affects the
7 interests of the states, in order to properly exercise the
8 states' constitutional authority to check federal power,
9 preserve state sovereignty and protect the rights of the states
10 and the people; and

11 WHEREAS, the states have the authority to define and limit
12 the agenda of a convention to a single-issue countermand
13 amendment as provided pursuant to Article V of the United
14 States constitution; and

15 WHEREAS, the delegates sent by the states to a
16 constitutional convention shall have the limited authority to
17 deliberate on and decide whether the countermand amendment, as
18 pre-approved by state legislatures, should be sent back to the
19 state legislatures for ratification;

20 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
21 STATE OF NEW MEXICO that the United States congress be
22 requested, pursuant to the provisions of Article V of the
23 United States constitution, to call a single-issue convention
24 of the states limited to proposing a countermand amendment to
25 the United States constitution; and

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1 BE IT FURTHER RESOLVED that the New Mexico legislature
2 request the United States congress to convene the requested
3 constitutional convention within sixty days after the date it
4 receives the thirty-fourth call for that convention from state
5 legislatures; and

6 BE IT FURTHER RESOLVED that the New Mexico legislature
7 urge the legislatures of the other forty-nine states to apply
8 to the United States congress to call a constitutional
9 convention of the states to consider a countermand amendment to
10 the United States constitution pursuant to Article V of the
11 United States constitution; and

12 BE IT FURTHER RESOLVED that the New Mexico secretary of
13 state be directed to transmit copies of this application to the
14 president and secretary of the United States senate and to the
15 speaker and clerk of the United States house of
16 representatives, to the New Mexico congressional delegation and
17 copies to the presiding officers of each of the legislative
18 houses in the several states, requesting their cooperation; and

19 BE IT FURTHER RESOLVED that this application constitutes a
20 continuing application in accordance with Article V of the
21 United States constitution until the legislatures of at least
22 two-thirds of the several states have made applications on the
23 same subject.

**SENATE
STATE OF LOUISIANA**



SENATOR A.G. CROWE
Senate District 1

Labor & Industrial Relations
Chairman

**Louisiana International Gulf
Transfer Terminal**
President

**Commerce, Consumer Protection
& International Affairs**

Environmental Quality, Retirement

**Select Committee on Coastal Restoration
Flood Control**

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Wayne Labit
Legislative Assistant

TO: Alaska State Legislature State Affairs Committee: Representative Bob Lynn, Senator Bill Stoltze and Alaska Legislature Judiciary Committee: Representative Gabrielle LeDoux and Senator Lesil McGuire
FROM: Senator A.G. Crowe, Louisiana State Legislature
SUBJECT: Application for Countermand Amendment Convention and Delegate Resolution with Countermand Amendment

I am writing to testify for the passage of the two resolutions the Alaska Legislature is entertaining. The first one is the Application to Congress to call for a Countermand Amendment Convention. This is an important first resolution and step to get to the 34 States, of which I am the sponsor for the same bill here in Louisiana, which is to convene a Countermand Amendment Convention.

The second and very important resolution is the Delegate Resolution with the language of the Countermand Amendment tied directly to the resolution. This is important in that it defines the Countermand Amendment Convention as to Article 4, Section 4 which defines a Republican form of a convention (majority vote) and that all votes are one State, one Vote, as per the first "Whereas." It defines and declares the delegates are bound to any State that has this and they must vote for the approved Countermand Amendment. This maintains State Legislative Sovereignty by ensuring the State Legislature is the deliberative body and controls the Delegates from start to end. This resolution further defines the appointment of delegates, a Delegate Credential Committee to oversee the delegates, the convention rules and procedures as well as the duties of the delegates, alternate delegates and oath taken for both primary and alternate delegates. Lastly, it defines the text of the Countermand Amendment to be voted on by all the States at the convention.

Once 26 States or more pass this Delegate Resolution and Countermand Amendment and once the convention is called by Congress and the convention approves the language of the Countermand Amendment, then the convention is over and will have been safe, efficient and very timely. The State of Louisiana will be passing this same legislation and looks forward to working with fellow State Legislatures in Alaska to ensure that this Amendment is passed without delay and thus ratification.

Of added importance is that this same Delegate Resolution should be used for any other proposed Amendments that Alaska or other States approve. This then sets a very favorable precedence of the safety and efficiency of any and all other amendment conventions that may occur at a later date.

Sincerely,

Handwritten signature of A.G. Crowe in cursive.

A.G. Crowe
State Senator
State of Louisiana



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Alan Fehr

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Dickinson, ND 58601-9567

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afehr@nd.gov

COMMITTEES:

Agriculture
Human Services

February 20, 2015

To: Mike Coons, National Director, Citizen Initiatives
From: Representative Alan Fehr, ND House of Representatives

SUBJECT: Application for Countermand Amendment Convention and Delegate Resolution with Countermand Amendment

I am pleased to report that on February 17, 2015, the ND House of Representatives passed House Concurrent Resolution (HCR) 3017 and HCR 3016, relating to the Countermand Amendment. HCR 3017, the application for an amendment convention under Article V of the Constitution, was passed by the ND House by a vote of 56 -35. HCR 3016 was passed by the ND House by a vote of 59-32.

These resolutions are now in the ND Senate and will be heard in committee in a couple weeks.

Speaking for myself and the bill co-sponsors, Representative Damschen and Senator Larson, we are very enthusiastic about the potential benefit the Countermand Amendment would bring to restore a proper state of checks-and-balances between our states and the federal government.

We believe that we have experienced an escalation of over-reach by the federal government, especially in recent years, but the states have limited ability for redress. The Countermand Amendment would give the states a tool whereby they could collectively address and rescind valid concerns of federal over-reach that currently exists in congressional action, executive order, and agency rules. This tool, the Countermand Amendment, would provide states a means and process to collectively challenge and potentially rescind the most burdensome federal action. Perhaps more importantly, we believe that the existence of the Countermand Amendment in the US Constitution would have some effect of deterrence, which currently is not available.

We encourage all the states to discuss, debate, and pass the Countermand Amendment resolutions. We believe that this tool will strengthen us as a nation by strengthening the ability of states to collectively address national concerns.

Daniel George

From: Daniel George
Sent: Saturday, February 06, 2016 3:58 PM
To: Dianne Blumer (Dianne.Blumer@akleg.gov)
Subject: SJR 15 & SCR 4 Support Email

From: Don Brand [<mailto:dbrand@prodigy.net>]
Sent: Wednesday, February 03, 2016 1:05 PM
To: Sen. Bill Stoltze <Sen.Bill.Stoltze@akleg.gov>
Subject: Your call for a Convention of States for a "Veto" amendment

Senator, your proposed amendment falls well with the scope of the Convention of States Resolution that the Alaska Legislature passed in 2014. This is why we specifically worded the resolution in terms of a "subject" (limit the power of the Federal Government) rather than any specific amendment.

FYI, the COS Project resolution is progressing like wildfire. We've passed in 4 states (AK, FL, GA, AL), and the resolution is working it's way through dozens of other states. In the last week alone, AZ, TN, IN and NM have passed the resolution out of committees, and NM has passed the resolution in the House. There are grass roots organizations in all 50 states now, actively working to get us to the required 34 states.

If you have any questions, feel free to contact me and I will be happy to help you.

....
Don Brand
AK COS Legislative Liaison

"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." Ben Franklin

Daniel George

Subject: HCR 4 comment Add to SCR 4

From: Mike Coons [mailto:mcoons@mtaonline.net]
Sent: Wednesday, March 25, 2015 2:38 PM
To: Oren Brown
Subject: HCR 4 comment Add to SCR 4

This is my testimony to the House State Affairs re: HCR4, companion bill to SCR 4

My name is Mike Coons, National Director for Citizen Initiatives.

Assistant Attorney General Mike Shechter in his opinions last Tuesday made comments that need to be corrected.

1.He kept calling Article V (pertaining to the States) a Constitutional Convention. This is not a Constitutional Convention, it is an amendment convention and to continue calling it a Constitutional Convention is one of the many reasons the John Birch and Eagle Forum has been so vocal and effective. The only Constitutional Convention was in 1787 whereby Article V was put into the Constitution for purposes of amending the Constitution either by the Congress or the States.

2.For clarification he stated that Article V, Congress, has been used 27 times. Actually the number is closer to 100. Reason this is significant is that the States rejected all but 27 proposed Amendments, which is why we put such an emphasis on State Legislature sovereignty in this process.

3.He talked about concerns if States can limit to a single amendment.
Article V is about the right of States to propose amendments. That means 1 or more.

4.He further commented that this has never been acted upon by the courts or Congress and that the Dept of Law didn't know how the question of a convention will be received. The courts have nothing to do with the convening of or running the convention. The Congress has only three duties; 1. Keep count of applications per subject matter; 2. Convene a convention upon 34 States making the same application and 3. receive and send proposed amendment for ratification to the 50 States.

5.Mr Shechter stated: "Once called a convention creates it's own rules and they can consider any amendments it may choose to is also an equally valid theory". This is why the Delegate Resolution, HCR 4 is so important! When 26 or more States, a majority, pass this, along with the embedded Countermand Amendment language, there is no option for the several States at the convention to create it's own rules or to bring up other amendments.

Of the two resolutions before you, HCR 4 is the most important. The safety and efficiency of the convention is assured with 26 or more States adopting the rules for the convention prior to the convening of the convention.

Mike Coons
National Director Citizen Initiatives

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Using Opera's mail client: <http://www.opera.com/mail/>

Daniel George

From: Mike Coons <mcoons@mtaonline.net>
Sent: Thursday, March 26, 2015 8:18 AM
To: Oren Brown; Sen. Bill Stoltz; Rep. Shelley Hughes
Subject: State Affairs Testimony, 25 Mar 2015

My name is Mike Coons, National Director, Citizen Initiatives. I would like to read the following from Charles Kacprowicz, our Executive Director (with comments from myself as well) pertaining to the constant attack by anti-Article V groups.

For 30+ years I have watched anti Article V groups (John Birch Society, Eagle Forum, Constitution Party and Libertarians) make a mockery of the Article V process and as a result of their flawed constitutional arguments paralyzed State Legislators keeping them from addressing serious problems America needed to remedy. In 1787 the first 13 State Legislatures created the Federal government to serve the needs of the States. They left for future Legislatures the sovereign authority to modify the conduct of the government when it encroaches on States and citizens rights. Here are just a few of the damages these anti Article V groups have inadvertently caused:

1. A national debt that has now reached \$18 trillion.
2. Unfunded liabilities of \$150 trillion dollars (\$500,000 per citizen).
3. America's energy industry has been crippled due to EPA, BLM, Executive Orders, etc.
4. Alaska and 37 other States energy industries have been severely restricted.
5. 5 million illegal immigrants legalized.
6. Land grabs with up to 50% of State land (west of the Missouri River) being under Federal government control (67% of Alaska, 82% of Nevada, 67% of Utah, 50% of North Dakota, etc).

State Legislatures are the most powerful and important government bodies in America. They are the final arbiters in all Constitutional matters. The Framers left for future generations of legislators the sovereign authority to protect our Constitution through Article V - not throw it away based on poor Constitutional analysis by anti Article V groups. All of the above has damaged America generally, the States have suffered specifically and even more, We the People have been directly impacted in the loss of our Liberties and Freedoms! Those damages to our National, State and individual Sovereignty could have been remedied through the State Legislatures through a sound and proper use of Article V.

Mike Coons
National Director, Citizen Initiatives

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'Single Issue' Article V Countermand Amendment Convention

August 30, 2014

The Honorable State Legislator
Senator

Subject: Bi-partisan – Article V Countermand Amendment Convention – Making the States partners in government, not subjects to Federal mandates.

The Honorable State Senator:

What State Legislatures must retain is their Constitutional sovereign authority under Article V. If this nation has any hope of restoring our Republic, then State Legislatures must not allow Congress, the Courts, Executive Branch, delegates sent a Convention, or State Governors define their Article V sovereignty for them. Presently Article V groups are proposing convening a Convention for the Balanced Budget Amendment, the Convention of States, Compact for America, Term Limits, etc. They are all bent on finding political solutions with the Federal government. Citizen Initiatives is opposed to these compromises. We see the battle for our Constitutional Republic as a matter of State Legislative sovereignty under Article V. Sovereignty trumps political and legal precedence. When the Legislatures amend the Constitution through the Convention process, all branches of the government are subject to the Amendment's provisions. To argue that the State Legislatures can exercise their Article V authority only if the Federal government approves their *Applications* and deliberations at a *Convention* is absurd. In such a case the Article V process would be meaningless to the States. As long as the *Application* on Congress is for a Single Issue Amendment Convention, Congress will have no justification for refusing to convene the Convention.

In all the confusion and debate about Article V Conventions over the last several months, it will be easy for legislators to confuse the authority they have to make an *Application* directing Congress to convene a Convention, with the authority they have to control the deliberations at a Convention. **This is not a subtle point.** If the Legislatures allow delegates they send to a Convention to function as free agents and not Ambassadors, then they will have surrendered at least part of their sovereign authority to delegates and the Convention process will be forever mired in politics. For the first time since the Constitutional Convention, States have an opportunity to be respected partners in government, not subjects to Federal mandates. When Legislatures adopt the *Single Issue Amendment* process, the Convention will be safe, quick (maybe only one week) and successful. Legislatures alone have authority to control the *Amendment* process through to *Ratification*. Their sovereignty has been passed down to them from the Articles of Confederation through Article V in the United States Constitution. **It must not be abdicated.** State Legislatures are the final arbiters in all Constitutional matters.

Citizen Initiatives has been the leading authority on Article V *Amendments* through Congress and Conventions for 40 years. We are presently partnering with legislators in many State Legislatures to secure a Call for the *Single Issue Countermand Amendment Convention*. At this time there are 5 States with one or more sponsors directing Congress to convene the Article V Single Issue Countermand Amendment Convention. At least another 7 States are reviewing with interest the "Application". Individual Countermand Initiatives by the States could be starting by mid 2016. The *Amendment* restores sovereignty in the States by empowering Legislatures to *Countermand* any law or regulatory ruling that is burdensome to the States, their citizens, businesses or Industries. When 30 States exercise their *Countermands*, the law or ruling is rescinded. The Federal government will then have to decide if it wants to rewrite the law in a way more amenable to the States, or abandon it. The government will also have to consider that any rewrite can also be Countermanded. Most important is the empowerment clause in Section 5, 6. The States can prosecute intentional violators of the *Amendment* in the absence of Federal prosecution. Key sections of the *Countermand Amendment* follow:

Section 1. The Article restores State sovereignty in our Constitutional Republic by providing State Legislatures Countermand authority.

Section 2. State Legislatures in the several States shall have the authority to Countermand and rescind any Congressional Statute, Judicial decision, Executive Order, Treaty, government agency's regulatory ruling, or any other government or non-government mandate (including excessive spending and credit) imposed on them when in the opinion of 60 percent of State Legislatures the law or ruling adversely affects their States' interest. When the Countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed. This Countermand authority shall also apply to existing laws and rulings.

Section 5. Any elected or non-elected government official, or any non-government individual or organization, who intentionally obstructs or prevents the implementation of any provision in this Article shall have committed a criminal offense and shall be subject to impeachment (when applicable) and criminal prosecution and upon conviction serve up to five years in prison.

Section 6. Individual States shall have authority to prosecute violators of this Article under State laws in the absence of Federal prosecution after 90 days from the date of the alleged violation. . .

We are asking you to sponsor the *Application* directing Congress to convene the *Countermand Amendment Convention* in your Legislature. Also, we are requesting that you sponsor the Delegate Resolution and text for the Countermand Amendment which is included in the Delegate Resolution.

When 34 Legislatures complete their *Applications* it automatically becomes a mandate on Congress to convene the Convention. Because the States making *Applications* for the *Single Issue Countermand Amendment Convention* will use the same *Application* on Congress with the same title and instructions, Congress will be required to convene the Convention. If Congress delays then the States, having met their obligations under Article V, will be Constitutionally authorized to convene the Convention on their own. After all, it was the State Legislatures who authorized the delegates at the Constitutional Convention to include the Article V process for proposing Amendments. Their primary concern was protecting the sovereignty of State Legislatures.

Comments made at the time the Constitution was adopted indicate that it was understood when the Constitution was drafted that Congress would have no discretion.

In *The Federalist*, Alexander Hamilton stated that when the proper number of applications had been received, Congress was "obliged" to call a convention and that "nothing is left to the discretion of Congress. James Madison also affirmed Hamilton's contention that Congress was obligated to call a convention when the requisite number of states requested it. In the North Carolina debates about ratifying the Constitution, James Iredell, who subsequently became one of the founding members of the Supreme Court, stated that when two-thirds of states have applied to Congress for a convention, Congress is "under the necessity of convening one" and that they have "no option." (Source: <http://en.wikipedia.org/>)

The purpose of Article V is to empower the Legislatures to address egregious wrongs suffered by the States and their citizens in the absence of Federal remedies. That sovereign authority is retained by our Legislatures today in Article V. In 1787 the Legislatures wanted a perpetual Constitution, but recognized the need future Legislatures would have to amend it. Under the Articles of Confederation a unanimous vote was needed to amend the Articles which meant that one State could hold the other 12 hostage. This almost cost us the Revolutionary War. The Founders found the solution to both States sovereignty and the legitimate role of the Federal government in Article V by requiring three quarters of the State Legislatures to ratify amendments to the new Constitution.

The Countermand Amendment will enable States to define their un-enumerated Rights in the 9th and 10th Amendment. In fact, the Amendment will allow the States to define issues that they would otherwise want to nullify without the risk of violence. Once a law or ruling is Countermanded it is automatically rescinded. Individual States, however, would still be able to employ nullifications on issues important to them independent of the Amendment.

There is a *Delegate Resolution* associated with the *Application* and it needs to pass as a separate Resolution in your Legislature. It should not to be sent to Congress with your *Application*. The *Delegate Resolution* is a contract between your Legislature and the delegates you send to the Convention. The *Delegate Resolution* instructs delegates on how to: 1) open the Convention; 2) organize the Convention; 3) require Article IV, 4 guarantees giving each State Delegation one vote at the Convention; 4) require a simple majority vote on all roll calls; 5) vote on the pre-approved *Amendment* text at the Convention; and more. When 26 or more State Legislatures pass the same or similar *Delegate Resolution* a successful outcome at the Convention is assured. Because it is not an Interstate Agreement, it won't violate prohibitions in Article I, Section 10 that require Congressional approval before States can enter into Interstate Compacts. To assure that the Legislatures' pre-approved text for the *Countermand Amendment* will be approved by the State Delegations, the *Delegate Resolution* is imperative.

State Legislatures are the sovereign deliberative body to decide these matters, not the delegates sent to an Article V Convention. There can be multiple *Single Issue Amendment Convention Applications* for different grievances advancing at the same time. Each one will have its own Convention requiring an *Application*, pre-approved *Amendment* and *Delegate Resolution*. It is not necessary to secure the Governor's signature for approval of the *Application* or *Delegate Resolution* because he has no Constitutional authority under Article V:

1. COUNTERMAND AMENDMENT <https://www.countermands.us/countermand-amendment.html>;
2. APPLICATION <https://www.countermands.us/countermand-application-on-congress.html>;
3. DELEGATE RESOLUTION <https://www.countermands.us/countermand-delegate-resolution.html>.

Resolutions addressing any issues relating to an Article V Convention fall under the authority of State Legislatures alone. Retaining that sovereign authority in State Legislatures is critical. Separate legislation ad-

addressing criminal penalties for violators of the provisions of the *Countermand Amendment* would, of course, need your Governor's signature.

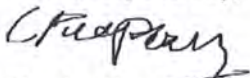
The *Countermand Amendment* is advancing in State Legislatures and is expected to receive 34 or more *Applications* by the middle of 2015. Because the Convention is for a Single Amendment with a pre-approved *Amendment* text in the *Delegate Resolution*, it is anticipated that 38 ratifications could be secured by early 2016.

Citizen Initiatives is serving as the Facilitator for State Legislatures and will be working hard to achieve ratification as soon as possible. If you would have interest in joining our *Single Issue Amendment Planning Committee*, please advise. The purpose of this Committee is to evaluate and approve Single Issue Amendments and Countermand Initiatives that should be advanced in the States.

Please support this bi-partisan *Amendment*. Use the links above for copies of each document. Once the *Amendment* is ratified the **States will be recognized as partners in government, not subjects**. Citizen Initiatives will be monitoring each step in the Article V process and reporting back to you the results in the States and in Congress. This is truly a joint initiative for both the States and their citizens. **The Countermand Amendment is simply too important to the States to be ignored.** *Let's work together and amend the U.S. Constitution with the Countermand Amendment as quickly as possible.*

Finally, Citizen Initiatives produces a weekly national radio program called "*State Legislators Round Table*". The program allows State legislators to discuss issues of importance to them and their constituents. Each State Legislature is assigned an evening that centers around issues important to their State. This is not a gotcha format. We require civility and mutual respect by members of the Round Table and listeners who call in. During a recent broadcast we had over 50,000 listeners on our network, plus 55 affiliated radio stations around the country rebroadcasting the program live into their local markets. We would be honored if you would be our Special Guest during one of these Round Table broadcasts. For the dates assigned to each of the 50 States go to [http://citizeninitiatives.org/Broadcast Schedule/Legislator Broadcast Dates.pdf](http://citizeninitiatives.org/Broadcast%20Schedule/Legislator%20Broadcast%20Dates.pdf). We included suggested topics for each date, although, legislators are free to present and discuss other subjects of importance to them. Each weekly broadcast is on a Tuesday night. The first hour starts at 8:00 PM EST, the second at 9:00 PM EST and the third hour at 10:00 PM EST. You can confirm your State's date by calling me at (828) 783 0599 cell or by confirming your acceptance in an email to: director@countermands.us.

Yours respectfully,



Charles Kacprowicz,
National Executive Director

Countermand Amendment video for State Legislators: <http://youtu.be/4lqtADyUs14>
Sovereignty Amendment: <https://www.countermands.us/sovereignty-amendment.html> (To be announced soon.)



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 through 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 is 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.

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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. Louie 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 Everrett
Va Rep Jim LeMunyon, Brenda Pogge,
Nc Rep. Fred Steen, Sen David Rouzer
Sc Rep Liston Barfield, Rep. Richard Chalk
Al Rep Jack Williams
La Rep Noble Ellington
Ark Sen Bill Lamoureaux
Tn Sen Stacey Campfield, Rep. Matthew Hill5
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.