

October 9, 2016  
Ms. Karen Haas  
Office of the Clerk  
U.S. Capitol, Room H154  
Washington, DC 20515-6601

Dear Ms. Haas,

As you are aware a Convention of States was held in Williamsburg, Virginia, September 21-23, 2016. The legal purpose of the Virginia Convention of States was to propose amendments to the United States Constitution. The Virginia Convention of States proposed five amendments to the Constitution. Due to an oversight these amendment proposals were not transmitted to Congress in order for Congress to commence the ratification process required by the Constitution. The purpose of this letter is to correct this oversight. An Exhibit Attachment attached to this letter is referenced as appropriate. Evidence too extensive for inclusion in the Exhibit Attachment is electronically referenced.<sup>1</sup>

While the political organization "Convention of States" erroneously labeled the Virginia Convention of States a "simulated" convention, the Williamsburg convention legally differs from other "simulated" conventions which have no legal standing. Prior "simulated" conventions were not authorized by state law nor were their commissioners state officeholders.

The Virginia Convention of States was comprised of current state officeholders representing all 50 states. Members of the state legislatures are official representatives of the state government. Any act performed where authorized by state law, is an official act by the state. Official votes, recorded by state delegation, each state having one vote, proposed the five amendments. No other business was transacted at the convention. The convention therefore was an official act of the states.

In the past few years several state legislatures have enacted legislation regulating a Convention of States. The Constitution's full faith and credit clause extends these state laws to all 50 states. These state laws make no exemption for a "simulated" convention. Under these laws a Convention of States is "called by the states." A Convention of States in which official representation from the states attends is a legal Convention of States empowered to propose amendments to the Constitution under state law.

Absent overriding federal legislation, which does not exist, these state laws fill the void so to speak as to proposal of amendments to the federal constitution. These laws are not perfect but nevertheless are enrolled and in full force. The Articles of Confederation authorized no specific body to propose alterations to the articles, yet a convention was legally held and executed this alteration.

The political group "Convention of States" which sponsored the convention relies entirely on the political theory of Professor Robert G. Natelson. Professor Natelson believes the people have no

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<sup>1</sup> See: [http://www.foavc.org/reference/COS\\_evidence.pdf](http://www.foavc.org/reference/COS_evidence.pdf).

part in the convention proceedings. Therefore there is no direct election of delegates or public debate on the convention agenda. Professor Natelson bases his theory on fiduciary law. He relies on the history of colonial conventions when this nation was still under British rule. The professor believes the practices regarding conventions of that time period have legal force today. In that day state legislatures appointed ambassadors to attend these conventions usually calling them “commissioners.” The professor frequently points out he has been quoted by the Supreme Court of the United States.

At the behest of the political group “Convention of States” several state legislatures enacted state laws transforming Natelson theory into enrolled state law. The laws deny the people any vote on the selection of commissioners who are instead appointed by the state legislatures to represent those legislatures. The laws deny any public debate over any proposed amendment by the Convention of States. The Virginia Convention of States was in absolute compliance with this portion of state law.

The exclusion of the people from the amendment process eliminates the certification process for these commissioners. As there is no certification process any state officeholder is qualified to represent the state legislature at a Convention of States. The Virginia Convention of States was in absolute compliance with this portion of state law.

The Convention of State laws require a preset amendment agenda for a Convention of States approved by the state legislature. Thus the actual convention is mere a showpiece requiring no true debate on the agenda. What might take days in proposal of an amendment at an elected convention of delegates is accomplished more efficiently in minutes in a Convention of States. The Virginia Convention of States was in absolute compliance with this portion of state law.

Neither convention rules nor state laws contain a formal process of transmission of proposed amendments from the Convention of States to Congress in order to commence the ratification process. No doubt this unintended oversight is because Professor Natelson, who proposed the rules for the Convention, essentially copied them from the 1861 Washington Peace Conference.<sup>2</sup> That conference relied upon Congress to propose the actual amendment<sup>3</sup> recommended by the conference.<sup>4</sup> Unlike the 1861 Conference, all commissioners to the Virginia Convention of States were official state officeholders empowered by state law to propose amendments to the Constitution. As no law or rule provides guidance a means must be created to correct this oversight.

There being no legal prohibition to the contrary, anyone therefore can transmit these proposed amendments to Congress. Therefore I am transmitting to you copies of the five proposed amendments enacted by the Convention of States in Williamsburg, Virginia on September 21-23, 2016 to be presented to Speaker of the House Ryan and President of the Senate Biden. I request the Speaker place the text of these proposed amendments in the Congressional Record. I request the Speaker and President of the Senate present the five proposed amendments to their respective

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<sup>2</sup> See: [http://www.conventionofstates.com/proposed\\_rules](http://www.conventionofstates.com/proposed_rules). For reference of comparison to actual rules of 1861 Peace Conference, see: [http://www.foavc.org/reference/conference\\_rules.pdf](http://www.foavc.org/reference/conference_rules.pdf).

<sup>3</sup> See: [http://avalon.law.yale.edu/19th\\_century/peace.asp](http://avalon.law.yale.edu/19th_century/peace.asp).

<sup>4</sup> See: <http://www.foavc.org/reference/proceedings.pdf>.

chambers in order to commence the choice of mode of ratification for the five proposed amendments.<sup>5</sup> The Constitution provides Congress no option by which it may refuse to choose a mode of ratification for amendments proposed by the Convention of States.

I have copied three states attorney generals from the states of Alaska, Florida and Indiana to this letter. The states of Alaska, Florida and Indiana are three of the states which have enacted Convention of States legislation.<sup>6</sup> The reason for their inclusion is the commissioners of these states violated the Convention of State laws of their respective states.<sup>7</sup> Specifically the commissioners failed to obey instructions from the state legislature regarding voting for proposed amendments at the convention. The states of Florida and Indiana make this violation a felony offense punishable by up to five years and three years in prison respectively.

Four of the five amendment proposed by the Convention of States were requested previously by state legislatures in applications to Congress. Thus, by implication and supposition, instructions existed from the state legislatures that their commissioners to vote favorably on these proposed amendments. The fifth proposal, however, regulation of the commerce clause, was never requested by any state legislature in any application nor is there record of any state legislature giving this instruction to their commissioners prior to the Virginia convention. As the commissioners were not instructed to vote for this proposed amendment by their legislature they acted illegally. This violation of state law is brought to the attention of the attorney generals with the expectation they enforce their state law to the fullest extent.

While the state of Alaska has no criminal sanction regarding violation of its Convention of States law, nevertheless its state law clearly limits any representative of the state to strictly supporting a "Countermand" amendment. The record of votes at the Convention of States shows the commissioners of the state of Alaska disregarded this state law voting in favor of several amendment proposals but not even proposing the "Countermand" amendment as required by state law. While Alaska law may lack a criminal penalty for this violation, possibly other Alaska state laws will punish those commissioners who violated Alaska state law.

I'm sure you recall the letter of Mr. Dan Marks sent to your office April 15, 2013 regarding an official count by Congress of applications for a convention call. In that letter Mr. Marks produced copies of the Congressional Record showing applications from 42 states for a convention call by Congress.<sup>8</sup> All applications submitted by the states are official acts of the state legislatures and official public records of Congress.

In 1930 the Senate of the United States officially counted and published a count of applying states. The Senate acknowledged officially a sufficient number of states had applied to Congress to cause a convention call.<sup>9</sup> A lawsuit initiated by Montgomery Sibley of the state of Maryland against congressional officials for failure to call a convention is pending before the federal judi-

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<sup>5</sup> See: Exhibit 1, Exhibit Attachment.

<sup>6</sup> See: Exhibit 2, Exhibit Attachment.

<sup>7</sup> See: Exhibit 3, Exhibit Attachment.

<sup>8</sup> See: [www.foavc.org/reference/COS\\_evidence.pdf](http://www.foavc.org/reference/COS_evidence.pdf).

<sup>9</sup> Ibid.

ciary. In that lawsuit (Appendix A) Mr. Sibley presents yet another set of applications proving a sufficient number of states have applied to satisfy the terms of Article V and cause Congress to call a convention.<sup>10</sup> Earlier still two federal lawsuits presented similar evidence proving the states had applied in sufficient number to cause a convention call.<sup>11</sup>

In response to these official public records of Congress, Congress has not called a convention as required by the Constitution. Congress, or its legal representatives, has never asserted this official public record was inaccurate, forged or otherwise contrived. Instead, in each instance congressional officials have, without objection, accepted the record as accurate and represents official proof a convention is mandated. This includes the three occasions of formal presentation of evidence in courts of law. Congress has never denied it is required to call a convention based on the evidence of its own official public record.

Further Congress, or its legal representatives, has never denied Congress is obligated to call a convention if the states apply in sufficient number (two thirds of the several state legislatures). Congress, or its legal representatives, has never raised any legal objection or argument to the fact a convention call is based on anything else but a numeric count of applying states with no other terms or conditions as specified by the explicit text of Article V of the United States Constitution.<sup>12</sup>

In fact, the official public record proves the states have submitted sufficient applications to satisfy the Article V requirement on ten separate occasions.<sup>13</sup> Despite this repeated constitutional satisfaction by the states, Congress unconstitutionally refuses to call the convention as mandated by Article V.

The political group Convention of States believes state applications must be on the same amendment subject before Congress is obligated to call a convention. Neither Congress nor the Supreme Court has ever asserted this stipulation. Instead the judiciary has repeatedly ruled Congress must call a convention if the states apply and the subject matter (character) of an application has no effect on the proposal process of Article V.<sup>14</sup> Even if it were true a convention call must be based on same amendment subject the official public record proves the states have satisfied this standard on four different amendment subjects.<sup>15</sup> Thus, under all circumstances, the states have “called” the convention.

In sum: while the official public record overwhelmingly proves Congress is obligated to call a convention Congress has done nothing. Until this congressional term state applications were not

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<sup>10</sup> Ibid.

<sup>11</sup> See: [www.article5.org](http://www.article5.org).

<sup>12</sup> 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;...” [Emphasis added].

<sup>13</sup> See: [www.foavc.org/StateApplications/Numeric.htm](http://www.foavc.org/StateApplications/Numeric.htm).

<sup>14</sup> See: [www.foavc.org/reference/COS\\_evidence.pdf](http://www.foavc.org/reference/COS_evidence.pdf).

<sup>15</sup> See: [www.foavc.org/StateApplications/Amendment\\_Subject.htm](http://www.foavc.org/StateApplications/Amendment_Subject.htm).

even counted by Congress. This obvious obstruction to the Constitution precluded any possibility of a convention call as Congress has no knowledge of how many, or when, the states applied. Only in this congressional term has Congress, for the first time in history, taken any action whatsoever to actually count the applications so as to compile them into a useable public list of applying states.<sup>16</sup> However, as you are aware Ms. Hass, as one of your duties of office is to publish the House Judiciary Committee list, Congress has declared this list to be a “purported” list of applications rather than an official list. Therefore as the list lacks official certification it has no legal effect. Congress has still done nothing. Meanwhile, a bill intended to create an official list of applications created from the national archives records remains bottled up in the House Judiciary Committee.<sup>17</sup>

Comparison to full public record of applications already completed proves the House Judiciary Committee is cherry picking its published list of “purported” applications making it appear an insufficient number of states have applied for a convention call when actually a list of all applying states made in absolute sequential order encompassing all years of application proves irrefutably the states have overwhelmingly satisfied the Article V mandate.<sup>18</sup> This full public record presents not only the full list of state applications submitted to Congress but the committee list as well. Thus it is comparatively easy to discern which applications the committee has ignored. The committee has skipped entire years of record in which states have submitted applications. The committee has presented only partial lists of submitted applications in the years of record it has presented. The sum effect is to present a false record of application by the states. This action appears to violate 18 USC 1001, presentation of a false record.<sup>19</sup>

As of the date of this letter Ms. Haas, the House Judiciary Committee has published state applications from 1973 to 2016. In some cases applications have been mislabeled such as the Kansas application purported to be a 2016 application but which the application text proves was submitted to Congress in 1978. To date the committee record shows 31 applying states for the years 1973 to 2016.

The committee has deliberately ignored (without public explanation) specific years of record from its tabulation. For example, the year 1979 has been completely ignored in its tabulation. The public record proves an additional six states, not presently on the committee’s list of 31 applying states, submitted applications for a convention call to Congress during that year.<sup>20</sup> This brings the total number of applying states to a total of 37 applying states thus satisfying the two thirds standard of Article V. The selective presentation by the committee is so blatant that in fact,

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<sup>16</sup> See: <http://clerk.house.gov/legislative/memorials.aspx>.

<sup>17</sup> HR 5306, “Article V Records Transparency Act of 2016 sponsored by Congressman Luke Messer of Indiana.

<sup>18</sup> See: <http://www.foavc.org/01page/Amendments/index.htm>.

<sup>19</sup> The pertinent part of 18 U.S.C. 1001 states: “... whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully— (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years ... (c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to— ... (2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

<sup>20</sup> See: [http://www.foavc.org/reference/1979\\_Applications.pdf](http://www.foavc.org/reference/1979_Applications.pdf).

enough state applications submitted 1973 to 2016 have been ignored by the committee to create another complete set of applying states which satisfies the two thirds requirement.

Add to this the aforementioned legal actions all of which have notified Congress that the states have satisfied the terms of Article V and thus are obligated to call a convention and it is obvious Congress has flagrantly ignored its mandated duty under the Constitution to call a convention. Let there be no misunderstanding on this. Alexander Hamilton in Federalist 85 stated Congress “shall have no option...the matter is peremptory.” The Supreme Court has stated the exact same thing: if the states apply Congress must call the convention. Yet Congress remains recalcitrant and refuses to act as required by the Constitution.

In regards to the aforementioned legal suits undertaken by citizens regarding Congress’ failure to call the convention, legal representatives of Congress have, at every turn, opposed any effort to cause Congress to call the convention. Thus far they have successfully raised the issue of standing as the basis to thwart the petitions by the people to have Congress obey the Constitution thus legitimizing Congress’ authority not to call a convention.<sup>21</sup>

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<sup>21</sup> An examination of the doctrine of standing as currently construed by the judiciary proves the doctrine unconstitutional. Standing to sue is a court created doctrine relating to court jurisdiction and is a frequently used contrivance by the judiciary to avoid controversial issues. The doctrine denies the petition for redress to the judiciary by the plaintiff on the supposition the court determines it lacks jurisdiction to consider the merits of the case presented.

Article III §2 of the Constitution itemizes eight standings, or court jurisdictions, on which legal action may commence before the federal judiciary. The word “all” in the Constitution precludes any exception to these eight standards by the judiciary. Thus, if obeyed by the judiciary, the Constitution prohibits the judiciary from adding or creating any interpretation of standing or jurisdiction beyond those eight itemized in the Constitution. If any of the eight standards of jurisdiction are met, according to the Constitution, the party has “standing” as the Constitution grants court jurisdiction for that case. These standards are [numbers added]: “all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority (1);--to all cases affecting ambassadors, other public ministers and consuls (2);--to all cases of admiralty and maritime jurisdiction (3);--to controversies to which the United States shall be a party (4);--to controversies between two or more states (5);-- between citizens of different states (6);--between citizens of the same state claiming lands under grants of different states (7), and between a state, or the citizens thereof, and foreign states, citizens or subjects (8).”

Instead of obeying the explicit text of the Constitution however, the judiciary has instead “interpreted” the “cases and controversies” clause with a series of decisions “defining” standing. None of these interpretations refer to any of the eight itemized jurisdictions found in Article III as the basis for that definition. Based on these decisions, rather than by use of the constitutional text, the judiciary has repeatedly determined citizens lacked “standing” (meaning the court lacked jurisdiction to hear the merits of the case) even though the citizens qualified under one or more of the eight itemized jurisdictions listed in the Constitution. As far as can be determined no federal court has ever released a ruling in which that court arrived its determination of standing (jurisdiction) by referring to the explicit text in the Constitution and then explaining why the plaintiff in the case did not meet any of the eight jurisdictions itemized in the Constitution.

Further the Constitution assigns Congress, not the judiciary, the role of determination of court jurisdiction. As stated in the Constitution: “The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. (Article III, § 1) ... “In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. (Article III, § 2). The Constitution assigns jurisdiction “regulation” to Congress. Thus determination of standing (jurisdiction) is a legislative, not judicial, function.

Unquestionably the Constitution requires both state legislators and members of Congress obey the mandates of the Constitution. As expressed in Article VI of the Constitution:

“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;...”

The judiciary has determined citizens lack standing to cause Congress to obey the Constitution as mandated by Article VI. While it may be contended the doctrine of standing as practiced by the judiciary is unconstitutional, nevertheless the doctrine is what it is. The Court’s seminal ruling in *Marbury v Madison*, 5 U.S.137 (1803) settles the question. The Court (quoting Blackstone) stated, “...It is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.”

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Congress has never determined which of the several versions of standing created by the judiciary in various decisions throughout the years is the “correct” version of standing. It has never enacted specific legislation dealing with court jurisdiction vis-à-vis standing that is legislation precisely defining standing, the legal elements which create standing or the standards of evidence required to establish standing. Thus Congress has never created court rules establishing a due process for the court to determine standing (jurisdiction) leaving the matter entirely to the discretion of each judge to determine standing. There is a constitutional reason Congress has failed to this.

The First Amendment prohibits Congress from enacting such legislation. The First Amendment states: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” The First Amendment was enacted following ratification of the original Constitution. While the amendment prohibits legislative regulation of the right of petition for redress, the amendment did not alter the Article III prohibition of judicial regulation of standing (jurisdiction) beyond the ministerial duty of determination the plaintiff party met one of the eight standards of jurisdiction itemized in the Constitution.

In *California Motor Transport Co. v Trucking Unlimited*, 404 U.S. 508 (1972) the Supreme Court stated:

“The right of petition is one of the freedoms protected by the Bill of Rights, and we cannot, of course, lightly impute to Congress an intent to invade these freedoms. ... The same philosophy governs the approach of citizens or groups of them to administrative agencies (which are both creatures of the legislature, and arms of the executive) and to courts, the third branch of Government. Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition.”

By judicial ruling the right of petition the judiciary for redress is a First Amendment right. That amendment precludes Congress from enacting legislation infringing on the right of petition for redress to the judiciary meaning Congress cannot enact legislation restricting standing (jurisdiction) beyond the eight itemized jurisdictions expressed in Article III. The judiciary is precluded from further regulation of standing (jurisdiction) by Article III which makes determination of court jurisdiction a legislative, not judicial, constitutional function. Therefore no court doctrine of standing which does not base its ruling on the eight itemized jurisdictions in Article III is constitutional.

In regards to a Convention of States, the quote is clear. Obviously refusal to call a convention when mandated to do so “invades” the right to have a convention. Urged by Congress the judiciary has repeatedly determined citizens lack standing to cause Congress to call a convention when mandated to do so. It follows therefore citizens have no legal right or place in the amendatory process as they lack fundamental proof of such participation being a legal right, that is a “legal remedy by suit or action at law whenever that right is invaded” exists. If citizens had a legal right to demand by means of legal remedy a violation of Article V be redressed, then it could be said citizens possess a legal right or place in the amendatory process.

However the judiciary has expressed the contrary opinion. The judiciary has declared citizens have no legal remedy as they lack standing to redress invasion of the right. Thus the people have no “say” in the alteration of the Constitution by such means as *direct* election of representatives (delegates) to a convention or public debate of the convention agenda. Citizens therefore are reduced to *indirect* election of “commissioners” through election of state officeholders who then appoint the commissioners under the terms of the Convention of States law. This law cannot be considered discriminatory in the deprivation of the right to vote as it encompasses all citizens of a state. Consequently the law does not discriminate against any particular class of citizens as all are equally deprived of their right to vote.

While it may be argued that just because people elect a state officeholder this does not infer they would, if presented the opportunity, elect that person to the office of delegate, such argument is moot as the judiciary has ruled the people have no right to such election as they lack legal remedy to enforce the purported right. Thus unelected commissioners, rather than representing the people, by state law represent the interest of the state legislature, are regulated by the state legislature and have no obligation to the people of the state. These commissioners, as enunciated by Professor Natelson, are free to use their office to affect the Constitution as they please without further recourse or review by the people but are strictly regulated by the state legislatures.

Congress has ignored Article V despite the obligation specified in Article VI. Such circumstance is intolerable and smacks of despotism. If Congress can violate one portion of the Constitution does it not have the right to violate all the Constitution? Such a position cannot be sustained. How shall such defiance be remedied?

Clearly not by reliance on the judiciary which have shown outright opposition, to enforcement enforcement of a unequivocal constitutional provision. There is nothing to suggest that were the states to attempt a similar legal path, they would not meet the same fate as has befallen the citizen.<sup>22</sup> Where the states might rely on the President for redress, the judiciary has removed that office from participation in the amendment process eliminating that option.<sup>23</sup>

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<sup>22</sup> The judiciary removed itself from consideration of redress by the state when it declared any decision judiciary might make in regards to Article V is an “advisory” opinion” and therefore can be disregarded. “... any judicial expression ... is a mere admonition ... in the nature of an advisory opinion, given wholly without constitutional authority.” *Coleman v Miller*, 307 US 433, 460 (1939).

<sup>23</sup> See: *Hollingsworth v State of Virginia*, 3 U.S. 378, 382 (1798), footnote by Justice Chase: “There can, surely, be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation: He has nothing to do with the proposition, or adoption, of amendments to the Constitution.”



This then leaves the states themselves who are under the same constitutional obligation to support the Constitution as Congress. The issue before the states is identical to facing the judiciary in *Marbury v Madison*—obedience to the oath of office and thus the Constitution versus an action by Congress contrary to that oath. Can state officeholders, who have taken a solemn oath to obey the Constitution, satisfy that oath of office if they have the means to enforce constitutional obedience but fail to act to bring about that obedience? Failure to act to redress congressional constitutional malfeasance when the state officeholders possess a method of redress can only mean the state officeholders violate their oaths of office and thus are equally guilty of malfeasance. If the Constitution requires a constitutional clause be accomplished it must be implied authority exists within the Constitution to accomplish the clause. Therefore the Constitution empowers the states to take whatever action required so as to be in compliance with their oaths of office and thus ensure obedience to the Constitution when Congress will not obey the Constitution.

When Congress is recalcitrant in its constitutionally mandated duty, should form triumph function? In form, Congress is to call a convention. In function, the Convention of States, having satisfied the two thirds requirement of Article V, has the right to alter the Constitution without congressional impediment, citizen review or recourse as Congress otherwise is granted a veto power of the Constitution. In this case, function must prevail over form.

Thus the states have the constitutional obligation and the right, to convene a Convention of States to correct congressional malfeasance and propose such amendments under such circumstances as the states deem proper. Review or recourse by the people in the form of election or other input being disposed of by the judiciary, state Convention of States laws are the only law at present in existence and are in full force and binding. No “simulated” convention exemption is recognized by law. Thus, as convened under authority of state law and comprised of state officeholders representing all states, the Virginia Convention of States held in Williamsburg on September 21-23, 2016 was in all respects a legal, constitutionally authorized convention. Under the terms of Article V Congress cannot refuse to choose a mode of ratification for amendments proposed by that convention which are hereby presented to Congress to affect that purpose.

Sincerely,

Bill Walker  
PO Box 1242  
Auburn, WA 98071

Cc:

Attorney General  
Jahna Lindemuth  
State of Alaska Department of Law  
P.O. Box 110300  
Juneau, AK 99811-0300

Attorney General  
Pam Bondi  
Office of Attorney General  
State of Florida  
The Capitol PL-01  
Tallahassee, FL 32399-1050

Attorney General  
Greg Zoeller  
Office of Attorney General  
302 W. Washington St.  
Indianapolis, IN 46204

**Convention of States  
Exhibit Attachment**

# **Exhibit 1**

## **Proposed Amendments to the Constitution of the United States by The Virginia Convention of States**



# CONVENTION of STATES

## HISTORIC SIMULATION

COLONIAL WILLIAMSBURG • SEPTEMBER 21-23, 2016

### OFFICIAL PROPOSALS OF THE SIMULATED CONVENTION OF STATES

Adopted September 23, 2016 in Williamsburg, VA

#### Statement of Convention:

“The Convention respectfully submits these proposals to the American people with the conviction that they are a sound beginning to a critically-needed national discussion about restoring the balance of power between the federal government and the states. Further, it is the conviction of this body that the states must deliberate and adopt appropriate proposals for a balanced budget amendment and an amendment to provide the states a means to serve as a check on judicial overreach by the federal judiciary of the United States.”

[Amendment proposals are listed in the order in which they were adopted]

#### Fiscal Restraints Proposal 1:

SECTION 1. The public debt shall not be increased except upon a recorded vote of two-thirds of each house of Congress, and only for a period not to exceed one year.

SECTION 2. No state or any subdivision thereof shall be compelled or coerced by Congress or the President to appropriate money.

SECTION 3. The provisions of the first section of this amendment shall take effect 3 years after ratification.

Vote: 45 Support—Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wyoming

3 Opposed—Connecticut, Ohio, Oregon

2 Absent/Abstain—West Virginia, Wisconsin

### **Federal Legislative & Executive Jurisdiction Proposal 1:**

SECTION 1. The power of Congress to regulate commerce among the several states shall be limited to the regulation of the sale, shipment, transportation, or other movement of goods, articles or persons. Congress may not regulate activity solely because it affects commerce among the several states.

SECTION 2. The power of Congress to make all laws that are necessary and proper to regulate commerce among the several states, or with foreign nations, shall not be construed to include the power to regulate or prohibit any activity that is confined within a single state regardless of its effects outside the state, whether it employs instrumentalities therefrom, or whether its regulation or prohibition is part of a comprehensive regulatory scheme; but Congress shall have power to define and provide for punishment of offenses constituting acts of war or violent insurrection against the United States.

SECTION 3. The Legislatures of the States shall have standing to file any claim alleging violation of this article. Nothing in this article shall be construed to limit standing that may otherwise exist for a person.

SECTION 4. This article shall become effective five years from the date of its ratification.

Vote: 44 Support—Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin

6 Opposed—Louisiana, Mississippi, Montana, New York, Virginia, Wyoming

0 Absent/Abstain—None

### **Federal Term Limits & Judicial Jurisdiction Proposal 1:**

No person shall be elected to more than six full terms in the House of Representatives. No person shall be elected to more than two full terms in the Senate. These limits shall include the time served prior to the enactment of this Article.

Vote: 35 Support—Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, Wyoming

12 Opposed—Alabama, Alaska, Arizona, California, Connecticut, Kentucky, Maine, Maryland, New Hampshire, Ohio, Washington, West Virginia

3 Absent/Abstain—Hawaii, Iowa, Oregon

**Federal Legislative & Executive Jurisdiction Proposal 2:**

SECTION 1. The Legislatures of the States shall have authority to abrogate any provision of federal law issued by the Congress, President, or Administrative Agencies of the United States, whether in the form of a statute, decree, order, regulation, rule, opinion, decision, or other form.

SECTION 2. Such abrogation shall be effective when the Legislatures of three-fifths of the States approve a resolution declaring the same provision or provisions of federal law to be abrogated. This abrogation authority may also be applied to provisions of federal law existing at the time this amendment is ratified.

SECTION 3. No government entity or official may take any action to enforce a provision of federal law after it is abrogated according to this Amendment. Any action to enforce a provision of abrogated federal law may be enjoined by a federal or state court of general jurisdiction in the state where the enforcement action occurs, and costs and attorney fees of such injunction shall be awarded against the entity or official attempting to enforce the abrogated provision.

SECTION 4. No provision of federal law abrogated pursuant to this amendment may be reenacted or reissued for six years from the date of the abrogation.

Vote: 43 Support—Alabama, Alaska, Arizona, California, Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

5 Opposed—Connecticut, Delaware, Georgia, Iowa, Montana

2 Absent/Abstain—Louisiana, Ohio

**Fiscal Restraints Proposal 2:**

SECTION 1. Congress shall not impose taxes or other exactions upon incomes, gifts, or estates.

SECTION 2. Congress shall not impose or increase any tax, duty, impost or excise without the approval of three-fifths of the House of Representatives and three-fifths of the Senate, and shall separately present such to the President.

SECTION 3. This Article shall be effective five years from the date of its ratification, at which time the Sixteenth Article of amendment is repealed.

Vote: 33 Support—Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada,

New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Vermont, Virginia, West Virginia, Wisconsin

14 Opposed—Florida, Georgia, Illinois, Maine, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Washington, Wyoming

3 Absent/Abstain—Hawaii, Louisiana, Mississippi

**Federal Legislative & Executive Jurisdiction Proposal 3:**

Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to any proposed or existing federal administrative regulation, in whole or in part, it shall require a majority vote of the House of Representatives and Senate to adopt or affirm that regulation. Upon the transmittal of opposition, if Congress shall fail to vote within 180 days, such regulation shall be vacated. No proposed regulation challenged under the terms of this Article shall go into effect without the approval of Congress. Congressional approval or rejection of a rule or regulation is not subject to Presidential veto under Article 1, Section 7 of the U.S. Constitution.

Vote: 42 Support—Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

5 Opposed—Connecticut, Illinois, Maine, Montana, New York

3 Absent/Abstain—Louisiana, Oregon, Rhode Island

## **Exhibit 2**

# **Enrolled Convention of State Laws**



# **The State of Alaska**

# STATE OF ALASKA THE LEGISLATURE

## 2016

**Source**  
CSHCR 4(STA)

**Legislative  
Resolve No.**  
46



Relating to the duties of delegates selected by the legislature to attend a convention of the states called under art. V, Constitution of the United States, to consider a countermand amendment to the Constitution of the United States; establishing as a joint committee of the legislature the Delegate Credential Committee and relating to the duties of the committee; providing for an oath for delegates and alternates to a countermand amendment convention; providing for a chair and assistant chair of the state's countermand amendment delegation; providing for the duties of the chair and assistant chair; providing instructions for the selection of a convention president; and providing specific language for the countermand amendment on which the state's convention delegates are authorized by the legislature to vote to approve.

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### **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**WHEREAS**, under the authority of art. V, Constitution of the United States, the legislature has applied to the United States Congress to call a convention of the states to amend the United States Constitution and adopt a countermand amendment to authorize the states, upon a vote of three-fifths of the state legislatures, to nullify and repeal a federal statute, executive order, judicial decision, regulatory decision by a federal government agency, or government mandate imposed on the states by law that adversely affects the interests of the states, in order to properly exercise the states' constitutional authority to check

federal power, preserve state sovereignty, and protect the rights of the states and the people;  
and

**WHEREAS**, to prepare for approval by the United States Congress of a constitutional countermand amendment convention called by two-thirds of the states under art. V, Constitution of the United States, for the limited purpose of amending the Constitution of the United States to include a countermand amendment, the legislature finds it necessary to provide for a selection process for and the duties of delegates and alternates to the convention, to provide for a state convention delegation chair, and to provide the specific language of the countermand amendment on which the legislature authorizes the convention delegates to vote, so that the countermand amendment may be sent to the states for ratification by the legislatures of three-fourths of the several states; and

**WHEREAS** the delegates sent by the legislature to the countermand amendment convention are representatives of the legislature and are thus required to fulfill the commission assigned to them in this resolution; delegates appointed under this resolution are not free agents; they are authorized only to complete the terms and conditions defined in this resolution, and any actions by the delegates appointed under this resolution that are not authorized in the resolution, or as amended and authorized by the legislature, are ultra vires and may not be relied on by delegates from other states or by the convention; and

**WHEREAS** the legislature hereby defines the duties and limits the authority of its delegates to the convention as specifically provided by this resolution;

**BE IT RESOLVED** that the legislature authorizes delegates to be summoned and appointed to participate at the convened convention according to the terms and conditions set out in this resolution; and be it

**FURTHER RESOLVED** that the number and qualifications of delegates to be sent to the convened convention will be decided by the legislature after the United States Congress summons delegates to the convention; and be it

**FURTHER RESOLVED** that the legislature may add to the number of delegates or replace or remove any delegate or alternate if, in its sole discretion, that action is necessary; alternates do not have an official role at the convention and may attend the convention only if the state delegations at the convention vote to allow their attendance or the legislature appoints an alternate to take the place of a delegate; and be it

**FURTHER RESOLVED** that the legislature hereby instructs and authorizes the state's delegates to the convention to vote to send the countermand amendment, as provided in sec. E of this resolution, back to the states for ratification by way of the United States Congress; delegates are prohibited to vote in favor of any alternate amendment or modified version of the countermand amendment that might be introduced at the convention, and they are hereby instructed to do all in their power at the convention to secure a vote that approves sending the countermand amendment back to the states for ratification; and be it

**FURTHER RESOLVED** that only the countermand amendment, as provided in sec. E of this resolution, will be considered by the legislature for ratification; and be it

**FURTHER RESOLVED** that, upon the enactment of this resolution and after a total of 34 states place a call under art. V, Constitution of the United States, for a countermand convention, the Speaker of the House of Representatives shall appoint three members of the House of Representatives, with one member being from the minority caucus, as provided by Rule 1(e), Uniform Rules of the Alaska State Legislature, and the President of the Senate shall appoint three members of the Senate, with one member being from the minority caucus, as provided by Rule 1(e), Uniform Rules of the Alaska State Legislature, to the Delegate Credential Committee; the committee shall have the responsibility and requisite authority to perform each of its assigned duties described in sec. A of this resolution; and be it

**FURTHER RESOLVED** that a vacancy on the Delegate Credential Committee shall be filled in the manner of the original appointment; and be it

**FURTHER RESOLVED** that the representatives on the Delegate Credential Committee shall select one co-chair from the representative members, and the senators on the Delegate Credential Committee shall select one co-chair from the senator members; and the co-chairs may assign staff to provide support for the Delegate Credential Committee; and be it

**FURTHER RESOLVED** that the Delegate Credential Committee may meet during and between legislative sessions; and be it

**FURTHER RESOLVED** that the Delegate Credential Committee shall continue until the first day of the First Regular Session of the Thirtieth Alaska State Legislature; and be it

**FURTHER RESOLVED** that the reestablishment of the Delegate Credential Committee shall be evaluated during the First Regular Session of the Thirtieth Alaska State Legislature and subsequent legislatures, and the legislature shall determine whether the

Delegate Credential Committee shall continue; and be it

**FURTHER RESOLVED** that members of the Delegate Credential Committee can be replaced or removed by the presiding officer appointing them, if, in the sole discretion of the presiding officer, that action is necessary; each member of the committee is required to take the following oath, administered by the presiding officer of the House of Representatives or Senate, and sign a pledge confirming that the following oath has been taken and agreed to: "I pledge to follow the instructions and charges in this resolution and any other directives given to me by the Alaska State Legislature from the date I am appointed to the committee and during the full term of the convention, to the best of my abilities, so help me God."; and be it

**FURTHER RESOLVED** that the members of the Delegate Credential Committee shall follow the directives in this resolution and any supplemental instructions from the legislature; the committee shall have the following duties:

SECTION A. DUTIES OF THE DELEGATE CREDENTIAL COMMITTEE. The committee is charged with the following duties:

- (1) decide all matters among committee members by a vote of a majority of the full membership of the committee;
- (2) function as the official facilitator for the legislature as required in this resolution;
- (3) appoint delegates, subject to approval by the legislature, to the convention and, within 10 business days after appointment, provide a committee report of the appointment to the house chief clerk and senate secretary;
- (4) appoint one delegate to serve as the chair of Alaska's state delegation and another delegate as the assistant chair;
- (5) issue to each approved delegate and alternate, including the chair and assistant chair, certification that the delegate has satisfactorily
  - (A) met the requisite qualifications established by the legislature;
  - (B) taken the applicable oath in sec. A(8) of this resolution; and
  - (C) confirmed the delegate's oath by signing a separate pledge document;
- (6) issue to each certified delegate and alternate, including the chair and assistant chair, a convention pass to the convention;

(7) notify the legislature of the financial or other needs of the state delegation at the convention;

(8) administer the following oaths to the delegates, alternate candidates, chair, or assistant chair before issuing certifications:

DELEGATES' AND DELEGATE ALTERNATES' OATHS

"I pledge to follow the instructions in this delegate resolution and any other directive consistent with this delegate resolution given to me by the Delegate Credential Committee or the legislature, whether such directive is given to me directly or indirectly, from the time I am certified by the committee to be a delegate or alternate and during the full term of the countermand amendment convention, to the best of my abilities, so help me God."

CHAIR AND ASSISTANT CHAIR OF ALASKA'S STATE DELEGATION  
OATHS

"I pledge to follow the instructions in this delegate resolution and any other directive consistent with this delegate resolution given to me by the Delegate Credential Committee or the legislature, whether given to me directly or indirectly, from the time I am certified by the committee to be the chair or assistant chair of Alaska's state delegation and during the full term of the countermand amendment convention, to the best of my abilities, so help me God."

(9) monitor the activities of Alaska's state delegation;

(10) keep close communications with the chair and assistant chair and provide needed assistance when requested;

(11) monitor the activities, deliberations, and all votes by the states at the convention; when possible, inform the chair, assistant chair, and legislature of which states at the convention have enacted a similar resolution for their delegates;

(12) make reports, at least quarterly or more frequently if necessary, to the legislature by submitting committee reports to the secretary of the senate and chief clerk of the house of representatives regarding the events at the convention, upcoming events, and progress and prospects for ratification of the countermand amendment by the delegations; make appropriate recommendations to the legislature on actions needed to ensure the

favorable vote by the state delegations to send the countermand amendment, as provided in sec. E of this resolution, to the states, by way of the United States Congress, for ratification;

(13) the committee may recommend to the legislature removal of a delegate or alternate from all convention activities for a violation of the provisions of this resolution and whether the delegate should have the delegate's credentials invalidated; the committee's recommendation must be approved by the legislature.

SECTION B. DUTIES OF CHAIR OF ALASKA'S STATE DELEGATION AND PRESIDENT OF CONVENTION. The chair and assistant chair of Alaska's state delegation are required to follow the directives in this resolution and others that may be issued by the legislature.

DUTIES AND RESPONSIBILITIES OF THE CHAIR. The chair is charged with joining with other state delegations to open the convention for business, identifying other state legislatures that have approved a delegate resolution for their delegates, and working with those delegations to find agreement to each of the following:

(1) arrange to have at least one delegate from each resolution delegation be the spokesman at every business meeting and roll call at the convention; unless otherwise specified, the chair will be the state delegation's spokesman;

(2) distribute to all delegates a pocket-sized copy of the United States Constitution;

(3) instruct resolution and non-resolution state delegates of the mandate in art. IV, sec. 4, of the United States Constitution that guarantees to each state a republican form of government, which gives each state equal standing when applying for a convention and when voting at and organizing the convention;

(4) work closely with the chairs of all other state delegations to find mutual agreement on the objectives in this resolution;

(5) assign to Alaska's delegates the following duties: assign to each delegate a proportionate number of delegates from other state delegations for the purpose of gaining consensus and agreement that the countermand amendment, as herein written, should be sent to the states for ratification;

(6) build a consensus between at least 26 state delegations, especially resolution delegations, at the convention to

(A) require that each state delegation at the convention has only one vote regardless of the number of delegates in a state delegation or the population of a state as provided by art. IV, sec. 4, of the Constitution of the United States;

(B) require a simple majority vote at all roll calls to decide any and all matters brought before the convention, including the question of whether the countermand amendment, as herein written, should be sent to the states for ratification;

(C) nominate and install convention officials who come from states that have passed this resolution for their delegates and who agree with sending the countermand amendment, as herein written, to the states for ratification;

(D) require a quorum of 26 state delegations before business can be conducted and before a vote can be taken to decide any and all matters that may be presented at the convention;

(E) build a consensus of at least 26 state delegations to work together for the mutual goal of sending the countermand amendment, as provided in sec. E of this resolution, back to the states for ratification;

(F) work to conclude convention business in 21 days; in no case is the convention to be longer than 180 days, unless the convention votes to extend the termination date by 180 days; no further extensions are to be allowed;

(G) if possible, nominate a candidate to be president of the convention who comes from Alaska's state delegation;

(H) if necessary, call for a vote for a candidate to be president who is like-minded and comes from a state that has enacted this resolution, whether or not the chair nominated the candidate to be president;

(I) try to avoid the nomination and election of a president who comes from a state that did not pass this resolution;

(J) support establishing the following duties of the president:

(i) to secure a vote from state delegations requiring that this resolution be the rules of order at the convention; "Robert's Rules of Order" may be adopted if they do not conflict with this resolution;

(ii) to follow the terms, directives, and requirements in this



resolution;

(iii) to call for a vote requiring each state delegation to appoint one delegate to be the delegation's spokesman;

(iv) to stay focused on the primary purpose, which is to have the countermand amendment, as herein written, sent to the states, by way of the United States Congress, for ratification;

(v) to recommend and request security measures as may be needed at the convention;

(vi) to officiate at the nomination and installation of all officers at the convention;

(vii) to establish the agenda at the convention as defined in this resolution;

(viii) to provide equal time in floor discussions for all states, whether for or against sending the countermand amendment to the states for ratification;

(ix) to prohibit the introduction at the convention of any subject matter or issue other than matters relating to the countermand amendment, as herein written, and whether it should be sent to the states for ratification;

(x) to expedite deliberations by the state delegations and to prevent unnecessary delays;

(xi) to authorize appropriate roll calls at the convention;

(xii) to settle all disputes between state delegations and delegates, whether or not they are from a resolution state;

(xiii) to recommend removal of the convention credentials of any delegate, including convention officials, for causing security problems at the convention;

(xiv) to establish procedures for installing and recognizing alternates who are to become delegates;

(xv) to call for a vote at the earliest favorable time to approve sending the countermand amendment to the states for ratification;

(xvi) to call for a vote to decide which method of ratification

the convention recommends to the United States Congress, whether by state legislatures or state conventions; recommend to the convention that ratification should be by legislatures; resolution delegations are required to vote for ratification through state legislatures;

(xvii) to report to the United States Congress, the 50 state legislatures, and the media the decisions of the convention;

(xviii) to recommend formal requests, from time to time, to the state legislatures, through representatives in the 50 state delegations, for money that will be needed to carry on the business of the convention;

(xix) if a candidate for president of the convention who does not come from a state that has adopted this resolution wins the presidency, then it is the duty of the chair and the delegates in the legislature's delegation to take reasonable steps to argue for a favorable vote by the convention to send the countermand amendment, as herein written, to the states for ratification;

(xx) to follow the procedures in sec. B of this resolution for electing other officers as the convention considers necessary; the president of the convention shall be responsible for defining the duties of each office in accordance with the requirements of this resolution;

(xxi) to oppose and vote against any effort by state delegations to delay a vote for the countermand amendment, or modify, alter, or change the text of the countermand amendment, as herein written;

(xxii) to oppose and vote against any efforts by state delegations to offer any other amendment to the constitution at the convention other than the countermand amendment, as provided in sec. E of this resolution;

(7) make regular reports to the committee regarding all activities at the convention;

(8) notify the committee of financial or other needs the Alaska state delegation has at the convention.

**SECTION C. DUTIES AND RESPONSIBILITIES OF DELEGATES.** The delegates will be required to follow the directives in this resolution and others that may, from time to

time, be issued by the legislature; each delegate is charged with the following duties:

- (1) comply with directives made under this resolution;
- (2) follow the reasonable instructions of the chair and assistant chair of Alaska's state delegation that are consistent with the duties set out in this resolution;
- (3) be amenable to the advice of the president of the convention when the president is from a resolution state; if the president is from a non-resolution state, work closely with the chair to find resolutions that are consistent with this resolution;
- (4) work to advance all the requirements and directives in this resolution;
- (5) be subject to dismissal from the state delegation for violation of this resolution;
- (6) be bound by this resolution to vote at all state delegation roll calls consistent with directives given to the chair in sec. B of this resolution, including sending the countermand amendment, as herein written, to the states for ratification by way of the United States Congress;
- (7) attend all assigned business sessions at the convention;
- (8) help the chair to successfully complete the instructions in sec. B of this resolution;
- (9) attend all meetings scheduled by the chair and
  - (A) report to the chair the results of the delegate's work among other state delegates;
  - (B) assess and report to the chair the number of states that plan to vote in favor of the countermand amendment;
  - (C) assess and report to the chair any problems or opportunities that may have developed or might develop relating to the purposes of this resolution;
  - (D) recommend to the chair other strategies that may help join with at least 26 other states to vote favorably for the countermand amendment at the convention.

**SECTION D. DUTIES AND RESPONSIBILITIES OF ALTERNATES.** The alternates of Alaska's state delegation will be required to follow the directives in this resolution and others that may be issued by the legislature; each alternate is charged with the following duties:

(1) be prepared to serve as a delegate if directed to do so by the committee or legislature;

(2) fulfill the duties in sec. C of this resolution when appointed as a delegate.

SECTION E. TEXT FOR THE COUNTERMAND AMENDMENT. The text for the countermand amendment that is to be sent to the state legislatures, by way of the United States Congress, for ratification shall read as follows:

"COUNTERMAND AMENDMENT

"ARTICLE 28 (or alternate number to be assigned by the United States Congress)

"**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 3.** From the time the initial Countermand is issued by a State Legislature, the other Legislatures shall have 18 months to complete the Countermand process. If the Countermand process is not completed in 18 months, then the law or ruling that is being challenged shall remain enforceable.

"**Section 4.** Each State Legislature shall complete their Countermand affidavit and deliver a certified copy to the Chief Justice of the United States Supreme Court, the Leader of the United States Senate, the Speaker of the House of Representatives, the President of the United States, and when applicable the Government Agency or Body that is being challenged.

"**Section 5.** Congress shall have the power to enforce this Article by

appropriate legislation.

"**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. Multiple prosecutions, by multiple States, for the same alleged crime are prohibited.

"**Section 7.** The Article shall be immediately part of the United States Constitution upon ratification by three quarters of the State Legislatures in the several States.

"**Section 8.** The provisions of this Article are enforceable within the United States, which shall include the Several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and the territories and possessions of the United States."; and  
be it

**FURTHER RESOLVED** that a certified copy of this delegate resolution must be agreed to and signed by every delegate sent by the legislature to the countermand amendment convention.

# **The State of Florida**

ENROLLED

CS/HB 609

2014 Legislature

1  
2 An act relating to Article V constitutional  
3 conventions; creating s. 11.93, F.S.; providing a  
4 short title; creating s. 11.931, F.S.; providing for  
5 applicability; creating s. 11.932, F.S.; providing  
6 definitions; creating s. 11.933, F.S.; establishing  
7 qualifications of delegates and alternate delegates to  
8 an Article V constitutional convention; creating s.  
9 11.9331, F.S.; providing for the appointment of  
10 delegates by the Legislature; creating s. 11.9332,  
11 F.S.; requiring majority vote approval in each chamber  
12 for the appointment of delegates; creating s. 11.9333,  
13 F.S.; authorizing the Legislature to recall a delegate  
14 and fill a vacancy; authorizing the presiding officers  
15 of the Legislature to call for a special legislative  
16 session to fill a vacancy; creating s. 11.9334, F.S.;  
17 establishing a legislative method for appointments and  
18 recalls; creating s. 11.9335, F.S.; providing for the  
19 reimbursement of delegates and alternate delegates for  
20 per diem and travel expenses; creating s. 11.9336,  
21 F.S.; requiring delegates and alternate delegates to  
22 execute a written oath of responsibilities; creating  
23 s. 11.9337, F.S.; providing for the filing of  
24 delegates' oaths and the issuance of commissions;  
25 creating s. 11.934, F.S.; providing for instructions  
26 to delegates and alternate delegates; creating s.

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27 | 11.9341, F.S.; establishing duties of alternate  
 28 | delegates; creating s. 11.9342, F.S.; establishing  
 29 | circumstances under which a convention vote is  
 30 | declared void; creating s. 11.9343, F.S.; providing  
 31 | circumstances under which a delegate or alternate  
 32 | delegate's appointment is forfeited; creating s.  
 33 | 11.9344, F.S.; establishing circumstances under which  
 34 | the application to call an Article V convention ceases  
 35 | to be a continuing application and is deemed to have  
 36 | no effect; creating s. 11.9345, F.S.; providing  
 37 | penalties for a delegate or alternate delegate who  
 38 | votes or attempts to vote outside the scope of the  
 39 | Legislature's instructions or the limits of the call  
 40 | for a constitutional convention; creating ss. 11.935,  
 41 | 11.9351, and 11.9352, F.S.; establishing a delegate  
 42 | advisory group, its membership, duties, and  
 43 | responsibilities; providing an effective date.

44 |  
 45 | Be It Enacted by the Legislature of the State of Florida:

46 |  
 47 | Section 1. Section 11.93, Florida Statutes, is created to  
 48 | read:

49 | 11.93 Short title.—Sections 11.93-11.9352 may be cited as  
 50 | the "Article V Constitutional Convention Act."

51 | Section 2. Section 11.931, Florida Statutes, is created to  
 52 | read:



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53        11.931 Applicability.—Sections 11.93-11.9352 shall apply  
 54 when an Article V convention is called for the purpose of  
 55 proposing amendments to the Constitution of the United States.

56        Section 3. Section 11.932, Florida Statutes, is created to  
 57 read:

58        11.932 Definitions.—As used in ss. 11.93-11.9352, the  
 59 term:

60        (1) "Alternate delegate" means an individual who is  
 61 appointed as an alternate delegate as provided by law.

62        (2) "Article V convention" means a convention called for  
 63 by the states under Article V of the Constitution of the United  
 64 States for the purpose of proposing amendments to the  
 65 Constitution of the United States.

66        (3) "Chamber" means either the Senate or the House of  
 67 Representatives.

68        (4) "Delegate" means an individual appointed to represent  
 69 Florida at an Article V convention.

70        (5) "Paired delegate" means the delegate with whom an  
 71 alternate delegate is paired.

72        Section 4. Section 11.933, Florida Statutes, is created to  
 73 read:

74        11.933 Qualifications of delegates and alternate  
 75 delegates.—

76        (1) To be appointed as a delegate or alternate delegate to  
 77 an Article V convention, a person must:

78        (a) Reside in this state.

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79 (b) Be a registered voter in this state.

80 (c) Not be registered or required to be registered as a  
 81 lobbyist under the laws of this state.

82 (2) A person may not be appointed as a delegate if he or  
 83 she holds a federal office.

84 Section 5. Section 11.9331, Florida Statutes, is created  
 85 to read:

86 11.9331 Appointment of delegates by Legislature.—

87 (1) Whenever an Article V convention is called, the Senate  
 88 and House of Representatives shall appoint, under rules adopted  
 89 jointly by the Senate and House of Representatives:

90 (a) The number of delegates allocated to represent  
 91 Florida.

92 (b) An equal number of alternate delegates.

93 (2) Unless otherwise established by the rules of procedure  
 94 of an Article V convention, it is presumed that Florida has two  
 95 delegates and two alternate delegates designated to represent  
 96 the state.

97 (3) If the Legislature is not in session when delegates  
 98 must be appointed, the President of the Senate and the Speaker  
 99 of the House of Representatives shall call the Legislature into  
 100 special session pursuant to s. 11.011 for the purpose of  
 101 appointing delegates and alternate delegates.

102 Section 6. Section 11.9332, Florida Statutes, is created  
 103 to read:

104 11.9332 Appointment by majority vote of each chamber;

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105 pairing delegates and alternate delegates.-

106 (1) To be appointed as a delegate or an alternate  
 107 delegate, a person must receive, in each chamber, the vote of a  
 108 majority of all the members elected to that chamber.

109 (b) At the time of appointment, each alternate delegate  
 110 must be paired with a delegate as provided by a concurrent  
 111 resolution adopted by the Legislature.

112 Section 7. Section 11.9333, Florida Statutes, is created  
 113 to read:

114 11.9333 Recall; filling a vacancy; special legislative  
 115 session.-

116 (1) The Legislature may, at any time, recall a delegate or  
 117 alternate delegate and replace that delegate or alternate  
 118 delegate with an individual appointed under ss.11.93-11.9352.

119 (2) The Legislature may, at any time, fill a vacancy in  
 120 the office of delegate or alternate delegate with a person  
 121 appointed under ss. 11.93-11.9352. If the Legislature is not in  
 122 session when a vacancy occurs with respect to both a delegate  
 123 and the paired alternate delegate, the President of the Senate  
 124 and the Speaker of the House of Representatives shall call the  
 125 Legislature into special session pursuant to s. 11.011 for the  
 126 purpose of appointing a delegate and an alternate delegate to  
 127 fill the vacancies.

128 Section 8. Section 11.9334, Florida Statutes, is created  
 129 to read:

130 11.9334 Method of appointment and recall.-The Legislature

ENROLLED

CS/HB 609

2014 Legislature

131 shall appoint or recall delegates or alternate delegates by  
 132 concurrent resolution.

133 Section 9. Section 11.9335, Florida Statutes, is created  
 134 to read:

135 11.9335 Reimbursement of per diem and travel expenses.—A  
 136 delegate or alternate delegate shall serve without compensation  
 137 but may be reimbursed for per diem and travel expenses pursuant  
 138 to s. 112.061.

139 Section 10. Section 11.9336, Florida Statutes, is created  
 140 to read:

141 11.9336 Oath.—Each delegate and alternate delegate shall,  
 142 before exercising any function of the position, execute an oath  
 143 in the state and in writing that the delegate or alternative  
 144 delegate will:

145 (1) Support the Constitution of the United States and the  
 146 State Constitution.

147 (2) Faithfully abide by and execute any instructions to  
 148 delegates and alternate delegates adopted by the Legislature.

149 (3) Otherwise faithfully discharge the duties of a  
 150 delegate or alternate delegate.

151 Section 11. Section 11.9337, Florida Statutes, is created  
 152 to read:

153 11.9337 Filing of oath; issuance of commission.—The  
 154 executed oath of a delegate or alternate delegate shall be filed  
 155 with the Secretary of State. After the oath is filed, the  
 156 Governor shall issue a commission to the delegate or alternate

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157 delegate.

158 Section 12. Section 11.934, Florida Statutes, is created  
159 to read:

160 11.934 Instructions to delegates.—

161 (1) When delegates and alternate delegates are appointed,  
162 the Legislature shall adopt a concurrent resolution to provide  
163 instructions to the delegates and alternate delegates regarding  
164 the rules of procedure and any other matter relating to the  
165 Article V convention that the Legislature considers necessary.

166 (2) The Legislature may amend the instructions at any time  
167 by concurrent resolution.

168 Section 13. Section 11.9341, Florida Statutes, is created  
169 to read:

170 11.9341 Duties of alternate delegates.—An alternate  
171 delegate:

172 (1) Shall act in the place of the paired delegate when the  
173 paired delegate is absent from the Article V convention.

174 (2) Replaces the paired delegate if the alternate  
175 delegate's paired delegate vacates the office.

176 Section 14. Section 11.9342, Florida Statutes, is created  
177 to read:

178 11.9342 Vote cast outside the scope of instructions or  
179 limits; status of vote.—A vote cast by a delegate or an  
180 alternate delegate at an Article V convention is void if the  
181 vote is outside the scope of:

182 (1) The instructions established by a concurrent

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183 resolution adopted pursuant to ss. 11.93-11.9352; or  
 184 (2) The limits placed by the Legislature in a concurrent  
 185 resolution or memorial that calls for an Article V convention  
 186 for the purpose of proposing one or more amendments to the  
 187 Constitution of the United States on the subjects and amendments  
 188 that may be considered by the Article V Convention.

189 Section 15. Section 11.9343, Florida Statutes, is created  
 190 to read:

191 11.9343 Vote cast outside the scope of instructions or  
 192 limits; appointment forfeited.—

193 (1) A delegate or alternate delegate forfeits his or her  
 194 appointment by virtue of a vote or attempt to vote that is  
 195 outside the scope of:

196 (a) The instructions established by a concurrent  
 197 resolution adopted pursuant to ss. 11.93-11.9352; or

198 (b) The limits placed by the Legislature in a concurrent  
 199 resolution or memorial that calls for an Article V convention  
 200 for the purpose of proposing one or more amendments to the  
 201 Constitution of the United States on the subjects and amendments  
 202 that may be considered by the Article V convention.

203 (2) If a delegate forfeits an appointment under subsection  
 204 (1), the paired alternate delegate of the delegate becomes the  
 205 delegate at the time the forfeiture of the appointment occurs.

206 Section 16. Section 11.9344, Florida Statutes, is created  
 207 to read:

208 11.9344 Vote cast outside the scope of instructions or

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209 limits; status of application.—The application of the  
 210 Legislature to call an Article V convention for proposing  
 211 amendments to the Constitution of the United States ceases to be  
 212 a continuing application and shall be treated as having no  
 213 effect if all of the delegates and alternate delegates vote or  
 214 attempt to vote outside the scope of:

215 (1) The instructions established by a concurrent  
 216 resolution adopted pursuant to ss. 11.93-11.9352; or

217 (2) The limits placed by the Legislature in a concurrent  
 218 resolution or memorial that calls for an Article V convention  
 219 for the purpose of proposing one or more amendments to the  
 220 Constitution of the United States on the subjects and amendments  
 221 that may be considered by the Article V convention.

222 Section 17. Section 11.9345, Florida Statutes, is created  
 223 to read:

224 11.9345 Vote cast outside the scope of instructions;  
 225 criminal liability.—A delegate or alternate delegate commits a  
 226 felony of the third degree, punishable as provided in s. 775.082  
 227 or s. 775.083, who signs an oath of office as required by s.  
 228 11.9336 in the state and who thereafter violates the oath by  
 229 knowingly or intentionally voting or attempting to vote outside  
 230 the scope of:

231 (1) The instructions established by a concurrent  
 232 resolution adopted pursuant to ss. 11.93-11.9352; or

233 (2) The limits placed by the Legislature in a concurrent  
 234 resolution or memorial that calls for an Article V convention

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235 for the purpose of proposing one or more amendments to the  
 236 Constitution of the United States on the subjects and amendments  
 237 that may be considered by the Article V convention.

238 Section 18. Section 11.935, Florida Statutes, is created  
 239 to read:

240 11.935 Article V convention advisory group.—

241 (1) As used in this section, the term "advisory group"  
 242 means the Article V convention delegate advisory group.

243 (2) The advisory group consists of the following members:

244 (a) An attorney appointed by the President of the Senate.

245 (b) An attorney appointed by the Speaker of the House of  
 246 Representatives.

247 (c) An attorney selected by agreement of the attorneys  
 248 appointed under paragraphs (a) and (b), who shall serve as chair  
 249 of the advisory group.

250 (3) The advisory group shall meet at the call of the chair  
 251 and shall establish the policies and procedures that the  
 252 advisory group determines necessary to carry out ss. 11.93-  
 253 11.9352.

254 (4) Upon the request of a delegate or alternate delegate,  
 255 the advisory group shall advise the delegate or alternate  
 256 delegate whether there is reason to believe that an action or an  
 257 attempt to take an action by a delegate or alternate delegate  
 258 would:

259 (a) Violate the instructions established by a concurrent  
 260 resolution adopted by the Legislature under ss. 11.93-11.9352;



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261 or

262 (b) Exceed the limits placed by the Legislature in a

263 concurrent resolution or memorial that calls for an Article V

264 convention for the purpose of proposing one or more amendments

265 to the Constitution of the United States on the subjects and

266 amendments that may be considered by the Article V convention.

267 (5) The advisory group:

268 (a) May render an advisory determination under this

269 section in any summary manner considered appropriate by the

270 advisory group.

271 (b) Shall render an advisory determination under this

272 section within 24 hours after receiving a request for a

273 determination.

274 (c) Shall transmit a copy of an advisory determination

275 under this section in the most expeditious manner possible to

276 the delegate or alternate delegate who requested the advisory

277 determination.

278 (c) If the advisory group renders an advisory

279 determination under this section, the advisory group may also

280 take an action permitted under s. 11.9351.

281 Section 19. Section 11.9351, Florida Statutes, is created

282 to read:

283 11.9351 Oversight of delegates with respect to

284 instructions.-

285 (1) The advisory group, on its own motion, or upon the

286 request of the President of the Senate, the Speaker of the House

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287 of Representatives, or the Attorney General, shall advise the  
 288 Attorney General whether there is reason to believe that a vote  
 289 or an attempt to vote by a delegate or alternate delegate has:

290 (a) Violated the instructions established by a concurrent  
 291 resolution adopted by the Legislature under ss. 11.93-11.9352;  
 292 or

293 (b) Exceeded the limits placed by the Legislature in a  
 294 concurrent resolution or memorial that calls for an Article V  
 295 convention for the purpose of proposing one or more amendments  
 296 to the Constitution of the United States on the subjects and  
 297 amendments that may be considered by the Article V convention.

298 (2) The advisory group shall issue the advisory  
 299 determination under this section by one of the following summary  
 300 procedures:

301 (a) Without notice or an evidentiary proceeding; or

302 (b) After a hearing conducted by the advisory group.

303 (3) The advisory group shall render an advisory  
 304 determination under this section within 24 hours after receiving  
 305 a request for an advisory determination.

306 (4) The advisory group shall transmit a copy of an  
 307 advisory determination in the most expeditious manner possible  
 308 to the Attorney General.

309 Section 20. Section 11.9352, Florida Statutes, is created  
 310 to read:

311 11.9352 Advisory determination concerning a vote outside  
 312 the scope of instructions.—Immediately, upon receipt of an

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313 advisory determination that finds that a vote or attempt to vote  
314 by a delegate or alternate delegate is a violation as described  
315 in s. 11.9351 or in excess of the authority of the delegate or  
316 alternate delegate, the Attorney General shall inform the  
317 delegates, alternate delegates, the President of the Senate, the  
318 Speaker of the House of Representatives, and the Article V  
319 convention that:

320 (1) The vote or attempt to vote did not comply with  
321 Florida law, is void, and has no effect.

322 (2) The credentials of the delegate or alternate delegate  
323 who is the subject of the determination are revoked.

324 Section 21. This act shall take effect July 1, 2014.

# **The State of Indiana**

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 224

---

AN ACT to amend the Indiana Code concerning the general assembly.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 2-8 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2013]:

### **ARTICLE 8. DELEGATES TO A CONVENTION CALLED UNDER ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES**

#### **Chapter 1. General Provisions**

**Sec. 1. This article applies whenever an Article V convention is called.**

#### **Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Alternate delegate" refers to an individual appointed as an alternate delegate as provided by law.**

**Sec. 3. "Article V convention" refers to a convention for proposing amendments to the Constitution of the United States called for by the states under Article V of the Constitution of the United States.**

**Sec. 4. "Delegate" refers to an individual appointed as provided by law to represent Indiana at an Article V convention.**

**Sec. 5. "House of representatives" refers to the house of representatives of the general assembly.**

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**Sec. 6. "Paired delegate"** refers to the delegate with whom an alternate delegate is paired as provided by law.

**Sec. 7. "Senate"** refers to the senate of the general assembly.

**Chapter 3. Duties of Delegates and Alternate Delegates**

**Sec. 1. (a)** At the time delegates and alternate delegates are appointed, the general assembly shall adopt a joint resolution to provide instructions to the delegates and alternate delegates regarding the following:

(1) The rules of procedure.

(2) Any other matter relating to the Article V convention that the general assembly considers necessary.

(b) The general assembly may amend the instructions at any time by joint resolution.

**Sec. 2. An alternate delegate:**

(1) shall act in the place of the alternate delegate's paired delegate when the alternate delegate's paired delegate is absent from the Article V convention; and

(2) replaces the alternate delegate's paired delegate if the alternate delegate's paired delegate vacates the office.

**Sec. 3. A vote cast by a delegate or an alternate delegate at an Article V convention that is outside the scope of:**

(1) the instructions established by a joint resolution adopted under section 1 of this chapter; or

(2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

is void.

**Sec. 4. (a)** A delegate or alternate delegate who votes or attempts to vote outside the scope of:

(1) the instructions established by a joint resolution adopted under section 1 of this chapter; or

(2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

forfeits the delegate's appointment by virtue of that vote or attempt to vote.

(b) The paired alternate delegate of a delegate who forfeits appointment under subsection (a) becomes the delegate at the time

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the forfeiture of the appointment occurs.

**Sec. 5.** The application of the general assembly to call an Article V convention for proposing amendments to the Constitution of the United States ceases to be a continuing application and shall be treated as having no effect if all of the delegates and alternate delegates vote or attempt to vote outside the scope of:

- (1) the instructions established by a joint resolution adopted under section 1 of this chapter; or
- (2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

**Sec. 6.** A delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of:

- (1) the instructions established by a joint resolution adopted under section 1 of this chapter; or
- (2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

commits a Class D felony.

#### **Chapter 4. Article V Convention Delegate Advisory Group**

**Sec. 1.** As used in this chapter, "advisory group" refers to the Article V convention delegate advisory group established by section 2 of this chapter.

**Sec. 2.** The Article V convention delegate advisory group is established.

**Sec. 3.** The advisory group consists of the following members:

- (1) The chief justice of the supreme court.
- (2) The chief judge of the court of appeals.
- (3) The judge of the tax court.

**Sec. 4.** The chief justice of the supreme court is the chair of the advisory group.

**Sec. 5.** The advisory group shall meet at the call of the chair.

**Sec. 6.** The advisory group shall establish the policies and procedures that the advisory group determines necessary to carry out this chapter.

**Sec. 7.** (a) Upon request of a delegate or alternate delegate, the advisory group shall advise the delegate or alternate delegate whether there is reason to believe that an action or an attempt to

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take an action by a delegate or alternate delegate would:

- (1) violate the instructions established by a joint resolution adopted under IC 2-8-3-1; or
- (2) exceed the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(b) The advisory group may render an advisory determination under this section in any summary manner considered appropriate by the advisory group.

(c) The advisory group shall render an advisory determination under this section within twenty-four (24) hours after receiving a request for a determination.

(d) The advisory group shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the delegate or alternative delegate who requested the advisory determination.

(e) If the advisory group renders an advisory determination under this section, the advisory group may also take an action permitted under section 8 of this chapter.

Sec. 8. (a) On its own motion or upon request of the speaker of the house of representatives, the president pro tempore of the senate, or the attorney general, the advisory group shall advise the attorney general whether there is reason to believe that a vote or an attempt to vote by a delegate or alternate delegate has:

- (1) violated the instructions established by a joint resolution adopted under IC 2-8-3-1; or
- (2) exceeded the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(b) The advisory group shall issue the advisory determination under this section by one (1) of the following summary procedures:

- (1) Without notice or an evidentiary proceeding.
- (2) After a hearing conducted by the advisory group.

(c) The advisory group shall render an advisory determination under this section within twenty-four (24) hours after receiving a request for an advisory determination.

(d) The advisory group shall transmit a copy of an advisory determination under this section in the most expeditious manner

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possible to the attorney general.

**Sec. 9. Immediately, upon receipt of an advisory determination under section 8 of this chapter that finds that a vote or attempt to vote by a delegate or alternate delegate is a violation described in section 8(a)(1) of this chapter or in excess of the authority of the delegate or alternate delegate, as described in section 8(a)(2) of this chapter, the attorney general shall inform the delegates, alternate delegates, the speaker of the house of representatives, the president pro tempore of the senate, and the Article V convention that:**

- (1) the vote or attempt to vote did not comply with Indiana law, is void, and has no effect; and**
- (2) the credentials of the delegate or alternate delegate who is the subject of the determination are revoked.**

SECTION 2. IC 4-6-2-1.1, AS AMENDED BY P.L.126-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.1. The attorney general has concurrent jurisdiction with the prosecuting attorney in the prosecution of the following:

- (1) Actions in which a person is accused of committing, while a member of an unlawful assembly as defined in IC 35-45-1-1, a homicide (IC 35-42-1).
- (2) Actions in which a person is accused of assisting a criminal (IC 35-44.1-2-5), if the person alleged to have been assisted is a person described in subdivision (1).
- (3) Actions in which a sheriff is accused of any offense that involves a failure to protect the life of a prisoner in the sheriff's custody.
- (4) Actions in which a violation of IC 2-8-3-6 (concerning constitutional convention delegates) has occurred.**

SECTION 3. IC 35-32-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. A person may be tried for a violation of IC 2-8-3-6 in:**

- (1) Marion County; or**
- (2) the county where the person resides.**

SECTION 4. IC 35-51-2-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 2:

- IC 2-4-1-4 (Concerning legislative investigations).
- IC 2-7-6-2 (Concerning lobbying).
- IC 2-7-6-3 (Concerning lobbying).
- IC 2-7-6-4 (Concerning lobbying).



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**IC 2-8-3-6 (Concerning constitutional convention delegates).**

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\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 225

---

AN ACT to amend the Indiana Code concerning the general assembly.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 2-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2013]:

**ARTICLE 8.2. DELEGATES TO A CONVENTION CALLED UNDER ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES**

**Chapter 1. General Provisions**

**Sec. 1. This article applies whenever an Article V convention is called.**

**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Alternate delegate" refers to an individual appointed as an alternate delegate as provided by law.**

**Sec. 3. "Article V convention" refers to a convention for proposing amendments to the Constitution of the United States called for by the states under Article V of the Constitution of the United States.**

**Sec. 4. "Chamber" refers to either the house of representatives or the senate.**

**Sec. 5. "Delegate" refers to an individual appointed as provided by law to represent Indiana at an Article V convention.**

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**Sec. 6. "House of representatives" refers to the house of representatives of the general assembly.**

**Sec. 7. "Paired delegate" refers to the delegate with whom an alternate delegate is paired as provided by law.**

**Sec. 8. "Senate" refers to the senate of the general assembly.**

**Chapter 3. Qualifications and Appointment of Delegates and Alternate Delegates**

**Sec. 1. (a) An individual must satisfy the following to be appointed as a delegate to an Article V convention:**

- (1) The individual must reside in Indiana.**
- (2) The individual must be a registered voter in Indiana.**
- (3) The individual must be at least eighteen (18) years of age.**
- (4) The individual is not registered or required to be registered as a lobbyist under IC 2-2-1, IC 4-2-7, IC 4-2-8, 2 U.S.C. 1603, or rules or regulations adopted under any of these laws.**

**(b) An individual may not be appointed as a delegate if the individual holds a federal office.**

**Sec. 2. An individual appointed as an alternate delegate must have the same qualifications as an individual appointed as a delegate under section 1 of this chapter.**

**Sec. 3. (a) Whenever an Article V convention is called, the general assembly shall appoint:**

- (1) the number of delegates allocated to represent Indiana; and**
- (2) an equal number of alternate delegates;**

**under rules adopted jointly by the house of representatives and the senate. Unless established otherwise by the rules and procedures of an Article V convention, it shall be assumed that Indiana has two (2) delegates and two (2) alternate delegates designated to represent Indiana.**

**(b) If the general assembly is not in session during the time during which delegates to an Article V convention must be appointed, the governor shall call the general assembly into special session under Article 4, Section 9 of the Constitution of the State of Indiana for the purpose of appointing delegates and alternate delegates.**

**Sec. 4. (a) To be appointed a delegate or an alternate delegate, an individual must receive, in each chamber, the vote of a majority of all the members elected to that chamber.**

**(b) At the time of appointment, each alternate delegate must be paired with a delegate as provided in a joint resolution adopted by**

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the general assembly.

**Sec. 5.** The general assembly may recall any delegate or alternate delegate and replace that delegate or alternate delegate with an individual appointed under this article at any time.

**Sec. 6.** The general assembly shall appoint or recall delegates or alternate delegates by joint resolution.

**Sec. 7. (a)** A delegate or an alternate delegate is:

- (1) entitled to receive the same mileage and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council; and
- (2) not entitled to receive a salary or a per diem instead of salary for serving as a delegate or alternate delegate.

**(b)** For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, the position of delegate or alternate delegate is not a lucrative office.

**(c)** All funds necessary to pay expenses under subsection (a) shall be paid from appropriations to the legislative council and the legislative services agency.

**Sec. 8.** Each delegate and alternate delegate shall, after appointment and before the delegate or alternate delegate may exercise any function as delegate or alternate delegate, execute an oath in writing that the delegate or alternate delegate will:

- (1) support the Constitution of the United States and the Constitution of the State of Indiana;
- (2) faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the general assembly and as may be amended by the general assembly at any time; and
- (3) otherwise faithfully discharge the duties of delegate or alternate delegate.

**Sec. 9. (a)** A delegate's or alternate delegate's executed oath shall be filed with the secretary of state.

**(b)** After a delegate's or alternate delegate's oath is filed with the secretary of state, the governor shall issue a commission to the delegate or alternate delegate as provided in IC 4-3-1-5(2).

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\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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## **Exhibit 3**

# **List of Offending Commissioners To The Convention of States**



## **The State of Alaska**

**Representative Lynn Gattis**

**Representative Shelley Hughes**

**Representative Tammie Wilson**

## **The State of Florida**

**Representative Matt Caldwell**

**Representative Larry Metz**

**Senator Alan Hays**

## **The State of Indiana**

**Representative Ben Smaltz**

**Senator Brandt Hershman**

**Senator Travis Holdman**