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Senate General Government Committee  
OPPOSITION to SJR 3 and SB112 - June 2025

## States Cannot Limit a Convention – SJR3 & SB112

Chairman Roegner and members of the Committee,

As recognized in our Declaration of Independence (DOI), a People always have the “self-evident right” to assemble in a convention to alter or abolish their government and set up a new one.

The Convention of States Project (COSP) is falsely marketing the convention provided for at Article V as a “convention of states” which is controlled by state legislatures. COSP further claims (falsely) that by passing “faithful delegate” laws, state legislatures will be able to dictate the amendments Delegates may propose; and will be able to prevent Delegates from proposing “unauthorized amendments” or writing a new Constitution.

Delegates to a convention are the *Sovereign Representatives* of the People and have the power to abolish one government and set up a new one.

Our first federal Constitution, the Articles of Confederation (AOC), had defects. So, on February 21, 1787, the Articles Congress called for a convention to be held in Philadelphia:

*“for the sole and express purpose of revising the Articles of Confederation”*

Article 13 of the AOC provided that amendments had *to be approved by the Congress and all of the then 13 States*.

Accordingly, the States’ Instructions to the Delegates encompassed the following:

1. *“alterations to the Federal Constitution which, when agreed to by Congress and the several States, would become effective”:*
  - a. Virginia, Pennsylvania, Delaware, Georgia, South Carolina, Maryland, & New Hampshire
2. *“for the purpose of revising the Federal Constitution”:*
  - a. Virginia, Pennsylvania, North Carolina, Delaware, & Georgia

3. “for the sole and express purpose of revising the Articles of Confederation”:
  - a. New York, Massachusetts & Connecticut
4. “provisions to make the Constitution of the federal Government adequate”:
  - a. New Jersey

But the Delegates ignored the instructions and wrote a new Constitution. The new Constitution provided at Article VII thereof that it would be ratified when only 9 States approved it (Under the AOC all 13 States plus congress must approve).

In Federalist No. 40 (15th para), James Madison invoked the “transcendent and precious right” to abolish one government and set up a new one as justification for the Delegates’ ignoring their instructions.

So even though Article V of the Constitution speaks of a “convention for proposing amendments,” the Declaration Of Independence, as part of the “organic law” of our Land, may be invoked, again, to impose a new constitution which creates a new government.

### Congress Decides how Delegates are Selected

The convention provided for at Article V is a *federal convention*, called by the federal government, to perform the federal function of addressing our federal Constitution.

Article V provides that when 2/3 of the state legislatures apply for it, Congress calls a convention. At that point, it is out of the state legislatures' hands.

Pursuant to Article I, §8, the last clause, (Necessary & Proper Clause) Congress has the power to make all laws necessary and proper to carry out its power to "call" the convention.

Accordingly, the Congressional Research Service Report (CRS) of April 11, 2014 says:

1. Congress is a key *actor* in the Article V Convention process
2. “First, Article V delegates important and exclusive authority over the amendment process to Congress...” (p.4)
3. “Second . . . Congress has traditionally laid claim to broad responsibilities in connection with a convention, including . . .
  - i. receiving, judging, and recording state applications;
  - ii. establishing procedures to summon a Convention;

- iii. setting the amount of time allotted to its deliberations;
- iv. determining the number and selection process for its delegates;
- v. setting internal convention procedures, including formulae for allocation of votes among the states; . . .” (p. 4) [italics added]

**Congress is not required to permit States to appoint Delegates. Congress may even appoint themselves as Delegates!**

## Foundational Principles

1. State legislatures are "creatures" of their State Constitutions and have **no competent authority** to control the **Sovereign Representatives of The People** at an Article V Convention. The People create governments by means of Constitutions. Since a **government** is the "creature" of its constitution, it can't be superior to its Creator, **The People**.
2. The Delegates, as **Sovereign Representatives of The People**, have the power to eliminate both the federal & state governments!
3. Article V grants to the Convention the power to “**propose amendments.**” So, the Convention is a *deliberative body*. State Legislatures violate the US Constitution when they pass laws which purport to strip Delegates of their power, granted by Article V, to “**propose amendments.**”

## States Can't Hold Delegates Accountable

Delegates are **the sovereign representatives of The People** and thus are vested with **plenipotentiary powers** to alter or abolish our form of government – which is our Constitution (Declaration of Independence, 2nd para).

**Plenipotentiary powers** refers to the full authority granted to diplomats or representatives to act on behalf of their government, particularly in negotiations or treaty signings. **In the context of delegates of the people**, it means **they have the complete power to make decisions and agreements that are binding for their constituents or government.**

Therefore, the Delegates—and we have no idea who they'd be or how they'd be selected—can propose a new Constitution which would have its own new (and easier) mode of ratification. This is what they did at the "amendments" convention of 1787—and **that is our only precedent** for a convention called to "amend" our federal Constitution, and we ended up with a *new* Constitution.

Madison's Journal of the Federal Convention of 1787 shows that on May 29, 1787, the Delegates voted to make their proceedings secret. What if the Delegates of today make their proceedings secret?

If the delegates vote by secret ballot, the States would never know who said what, or how they voted.

COSP's claim that States will control these proceedings **is just not supported** by history or what is written in and about Article V of the US Constitution.

I urge you ladies and gentlemen to vote NO on SJR3 and SB112 and let them die in committee as they should.