



WRITTEN TESTIMONY

To: Chairman Craig and Members of the Judiciary Committee of the Assembly of State Legislatures

From: Nick Dranias (President/Executive Director, Compact for America Educational Foundation); Dr. Kevin Gutzman (Board Member/Vice President/Scholar, CFAEF).

Date: June 3, 2015

Re: Article V Application Issues¹

I. Biography of Authors

NICK DRANIAS

Nick Dranias is President & Executive Director within the Office of the President of Compact for America Educational Foundation, Inc. Dranias previously served as General Counsel and Constitutional Policy Director for the Goldwater Institute, where he held the Clarence J. and Katherine P. Duncan Chair and directed the Joseph and Dorothy Donnelly Moller Center. Dranias led the Goldwater Institute's successful challenge to Arizona's system of government campaign financing to the Supreme Court. Dranias also serves as a constitutional scholar, authoring scholarly articles dealing with a wide spectrum of issues in constitutional and regulatory policy. Dranias' latest works are In Defense of Private Civic Engagement (Heartland Institute) and Introducing "Article V 2.0" (Heartland Institute/Federalist Society). Prior thereto, Dranias was an attorney with the Institute for Justice for three years and an attorney in private practice in Chicago for eight years. He served on the Loyola University Chicago Law Review, competed on Loyola's National Labor Law Moot Court Team, and received various academic awards. He graduated cum laude from Boston University with a B.A. in Economics and Philosophy.

¹ This memorandum is offered solely as expert policy and historical testimony. It is not intended and should not be construed as creating an attorney-client relationship or furnishing legal advice or representation.



KEVIN R.C. GUTZMAN

Professor of History – Western Connecticut State University

Kevin R. C. Gutzman is the New York Times best-selling author of four books. Professor of History at Western Connecticut State University, Gutzman holds a bachelor’s degree, a master of public affairs degree, and a law degree from the University of Texas at Austin, as well as an MA and a PhD in American history from the University of Virginia. Happy to be a former attorney, Gutzman devotes his intellectual energy to teaching courses in the Revolutionary and constitutional history of the United States, to writing books and articles in these fields, and to public speaking on related topics. Dr. Gutzman's first book was the New York Times best-seller, *The Politically Incorrect Guide to the Constitution*, an account of American constitutional history from the pre-Revolutionary days to the present. This work is unique in joining the fruits of the latest scholarship, a very readable presentation, and a distinctly Jeffersonian point of view. His second book, *Virginia’s American Revolution: From Dominion to Republic, 1776-1840*, explores the issue what the Revolutionaries made of the Revolution in Thomas Jefferson’s home state. After that, he co-authored *Who Killed the Constitution? The Federal Government vs. American Liberty from World War I to Barack Obama* with New York Times best-selling author Thomas E. Woods, Jr. Gutzman's new book is *James Madison and the Making of America*, and he is already at work on *Thomas Jefferson Revolutionary* (forthcoming). Gutzman has edited new editions of *John Taylor of Caroline’s Tyranny Unmasked* and *New Views of the Constitution of the United States*.

II. Introduction

Before addressing the specific Article V Application issues raised by the Assembly, we would like to make the following introductory observation and to offer technical assistance. The Compact for America Educational Foundation Inc. (the “Educational Foundation”) has been appointed as the Compact Administrator for the Compact for a Balanced Budget (the “CBB”). This appointment was made by the CBB Compact Commission. Currently, the states of GA, AK, ND and MS are members of the CBB. In its role as Compact Administrator, the Educational Foundation is charged with assisting the Compact Commission in its efforts to educate state legislators, members of Congress, and the general public on the policy objectives of the CBB as it seeks to expand the membership to the requisite 38 states and to encourage Congress to pass the activating congressional resolution – H.Con.Res. 26. Electronic copies of both the CBB and H.Con.Res. 26 will be provided to the Committee as part of this testimony.



The unvarnished truth is that even if the Assembly reached an informal understanding on aggregating Article V Applications or the nature of the Congressional call, that understanding would have no force beyond moral suasion. This is true even if the constitutionally correct interpretation of Article V, as discussed below, were adopted by the Assembly.

None of the application aggregation and congressional call issues that concern the Assembly can be resolved reliably without a formal and binding agreement—or Compact—among the states, to which Congress would yield. In this regard, it is important to set aside various misconceptions that have been advanced about the constitutionality of states using a compact for Article V amendments.

First of all, Article I, Section 10 of the Constitution does not require the states to obtain consent from Congress before they can enter into a Compact. The Supreme Court has ruled repeatedly that the Clause does not apply to those compacts that merely coordinate the deployment of a sovereign power that is held by the states and which does not threaten federal supremacy in regard to any of its delegated powers.² This interpretation is based on a robust understanding of the reserved power of the states to compact under the Tenth Amendment; specifically, that the purpose of Article I, section 10 is not to disable states from acting cooperatively, but only to protect the federal government’s supremacy in exercising delegated powers from concerted interference by the states.

Accordingly, an Article V compact that settled on an identical application (avoiding the controversy animating the Assembly today) would not require congressional consent because it would only be exercising state powers that do not interfere with federal supremacy in regard to any delegated power. Because the discretionary power of Congress to refuse to consent to such a compact under Article I, Section 10 would not be triggered, such a “compact-embedded” Article V Application would trigger Congress’ mandatory convention call duty to exactly the same extent as a non-compact application.

Furthermore, a well-drafted Article V compact that comprehensively addressed convention logistics or even ratification would not require congressional consent to be formed. This is because any portion of the compact that presumed congressional action would simply be made effective only if the requisite congressional action were first secured. For instance, compact provisions appointing and instructing delegates to vote into place specific convention rules or agreeing in advance to ratify specific amendments would provide that they are only effective if Congress first calls the convention or selects legislative ratification. In this way, “conditional enactments” would ensure that a

² See, e.g., *U.S. Steel v. Multistate Tax Commission*, 434 U.S. 452, 459 (1978); *Virginia v. Tennessee*, 148 U.S. 503, 518 (1893).



comprehensive Article V compact, once formed, would only exercise powers held by the states until such time as the requisite congressional action was secured. Such a compact would not need congressional consent to be formed under current case law.³

Secondly, the deployment of an Article V compact has the tactical advantage of allowing for an early, cooperative approach to Congress without conceding or implying that Congress occupies a substantive position in the Article V convention process.

For example, the Compact for a Balanced Budget Commission is currently working with 18 congressional co-sponsors from 13 states to pass H.Con.Res. 26. This concurrent resolution, if passed, would automatically call the compact-organized convention and select legislative ratification of the Compact's contemplated amendment if the requisite constitutional and compact-specified thresholds were met. There is nothing about the passage of H.Con.Res. 26 that implicates the need for Presidential presentment because the Supreme Court has ruled the President has no role in Article V.⁴ Moreover, in substance, the resolution would not make federal law; it would merely exercise power conferred solely on Congress to usher along a state-initiated and controlled constitutional amendment process.⁵

Although Congress is not obligated to pass H.Con.Res. 26 at this point in time, no one has questioned its power to do so if simple majorities wish to vote for it. This is because

³ Conditional enactments, such as these, would support a strong argument that a comprehensive Article V compact cannot cause Congress to suffer any concrete injury, which is necessary for federal court jurisdiction under the "case and controversy" standard.

⁴ *Hollingsworth v. Virginia*, 3 U.S. 378 (1798).

⁵ See generally *id.*; *INS v. Chadha*, 462 U.S. 919, 951 (1983). Notably, while Article I, Section 10 consent would not be required for a well-drafted Article V compact, current case law would support a strong argument that Congress would have given implied consent to the compact by passing H.Con.Res. 26 (or otherwise calling a convention triggered by a compact-embedded application). Implied consent has been held to satisfy Article I, Section 10 consent requirements; thus providing a fallback position to defend an Article V compact if a rogue court should reject the foregoing legal analysis and rule that Article I consent is required for a well-drafted Article V compact. *Virginia*, 148 U.S. at 521. Another benefit of seeking early cooperation from Congress, if courts should rule wrongly that Article I, Section 10 consent is required, is the ability to leverage the rule of law that Article I, Section 10 consent renders a compact equally the "law of the Nation" as much as the law of the member states. This would enable compacting states to enforce the compact's convention logistics directly on non-member states (rather than by sheer numerical advantage). *New Jersey v. New York*, 523 U.S. 767, 811 (1988) (holding that congressional approval "transforms an interstate compact within [the Compact Clause] into a law of the United States"); *Bryant v. Yellen*, 447 U.S. 352, 369 (1980); *McKenna v. Washington Metropolitan Area Transit Authority*, 829 F.2d 186 (D.C. Cir. 1987).



H.Con.Res. 26 simply ensures that Congress follows its own call and ratification referral duties when the requisite trigger thresholds are met. As an exercise of incidental Article V power, H.Con.Res. 26 is no different in principle from the promulgation of rules to tabulate received Article V Applications or to reject amendment proposals that exceed the scope of a convention call. Congress' convention call duty has few incidental powers; but certainly it includes the power to ensure Congress performs its own mandatory constitutional obligations.

The bottom line is that the Assembly can accomplish all of its goals much more effectively and efficiently through a compact. A compact can be as flexible and comprehensive (or targeted and concise) as the Assembly desires. Like any well-drafted contract, an Article V compact can contain all sorts of provisions to hedge against just about any litigation risk. Moreover, only an Article V compact can:

- legally bind states to an indisputably identical Article V Application;
- reliably establish delegate appointments, instructions and convention rules;
- create a genuine interstate agency that can represent the interests of the states, handle convention logistics, and furnish interpretive guidance;
- furnish universal enforcement authority (by one state against another state);
- furnish contractually binding alternative dispute resolution process to avoid extensive litigation; and
- provide a vehicle to secure reliable early Congressional acquiescence in a call that yields to the agenda desired by the applying states.

Should the Assembly decide to pursue research and development into an appropriate compact to definitely resolve the Article V Application issues it has spotlighted, the Compact for America Educational Foundation—the only educational foundation with a primary focus on advancing Article V compacts—stands ready, able and willing to discuss terms on which it could furnish technical advice and assistance in a manner similar to that provided to the CBB Compact Commission in the Educational Foundation's capacity of Technical Advisor.



III. How to Aggregate Article V Applying Resolutions.

Although it is tempting for some to urge Congress to call an Article V convention by disregarding differences among applying resolutions, to do so would be a Pyrrhic victory for state sovereignty. If Congress were to call a convention based on an aggregated montage of applying resolutions all seeking different amendments or amendment agendas, the resulting convention would be a creature of Congress, not the applying states. The precedent set would undoubtedly deter future use of Article V by the states because they would not be able to anticipate how Congress might choose to aggregate their applying resolutions. Fortunately, there is no legal or historical basis for this approach.

The Founding Era evidence clearly establishes that applying resolutions cannot be aggregated to count as the “Application” of two-thirds of the state legislatures unless they concur in requesting the same specific relief that is relevant to calling a proposing convention, such as the same amendment agenda. This conclusion arises from consideration of the fact that any “application,” including an Article V Application, is simply a petition for specific relief. When the states made “applications” to other governmental bodies during the Founding Era, it is manifestly apparent that they could and customarily did petition for very specific things.⁶ For example, the Constitution, at Article IV, Section 4, expressly authorizes the states to use an “application” to request federal protection against domestic insurrection. Additionally, perhaps the best supporting evidence for interpreting “application” as synonymous with “petition” and capable of requesting specific relief is the next-to-final draft of Article V.⁷

The next-to-final draft of Article V placed the power to propose amendments in the *hands of Congress* on “Application” of the state legislatures. It is clear that Congress was not supposed to draft the amendments for the states because this penultimate version of Article V already contemplated Congress having the parallel power to draft and propose amendments by a two-thirds vote of each house. Instead, the “Application” of two-thirds of the states was to be the only source of the amendments that Congress could propose under this next-to-final formulation of Article V. Although the final draft of Article V replaced Congress with a “convention for proposing amendments” as the formal

⁶ See, e.g., Journals of the Continental Congress, Proceedings, vol. VI, at 189 (June 1780) (application from New Hampshire); id. at 331 (October 1780) (application from New York), available at <https://play.google.com/store/books/details?id=QmgFAAAAQAAJ&rdid=bookQmgFAAAAQAAJ&rdot=1>

⁷ The Records of the Federal Convention of 1787, ed. Max Farrand, pp. 629-30 (New Haven: Yale University Press, 1911), Vol. 2, available at http://media.wix.com/ugd/e48202_1135e15a8dfe4d36a17016cea90ad498.pdf



proposing body to assure that the specific amendments desired by the states were actually proposed, nothing in the Report of Proceedings suggests that the Founders meant for the Application to cease requesting the proposal of specific amendments, as before. Thus, the states' traditional power to specify a requested action in its application was taken for granted even in the drafting history of Article V.

In light of such evidence, to constitute a singular *petition* of two-thirds of the state legislatures, the most natural interpretation of Article V is that the underlying applying resolutions must concur in requesting specific relief that is relevant to calling a proposing convention, such as the same amendment agenda. This interpretation is further supported by the public statements of the Founders.

Writing in Federalist No. 85, Hamilton observed in Federalist No. 85 that “whenever *nine* States *concur*,” Congress’s role in calling a convention would be “peremptory.”⁸ That Hamilton intended to underscore that the states’ applying resolutions would “concur” in the same amendment agenda to trigger the convention call is evident in the following sentence: “Here, then, the chances are as thirteen to *nine in favor of subsequent amendment*, rather than of the original adoption of an entire system.” Significantly, Hamilton footnoted the number “nine,” explaining: “It may rather be said TEN, for though two thirds may set on foot *the measure*, three fourths must ratify.” The colorful phrase that “two thirds may set on foot *the measure*” indicates “two thirds” of the states would have to unite on the same amendment (“the measure”) in their applying resolution to trigger the convention call.

This public understanding is further established in Federalist No. 85, where Hamilton observes, “Nor however difficult it may be supposed to *unite two thirds* or three fourths of the State legislatures, *in amendments* which may affect local interests, can there be any room to apprehend any such difficulty in *a union on points* which are merely relative to the general liberty or security of the people.” Again, Hamilton clearly contemplated that the states would “unite” on the same “amendments” in their applying resolutions, further evidencing the public understanding that two-thirds of the states would advance the same amendment agenda in their applying resolutions to constitute the call-triggering “Application.”⁹

⁸ Federalist No. 85 in *The Federalist* (The Gideon Edition), Edited with an Introduction, Reader’s Guide, Constitutional Cross-reference, Index, and Glossary by George W. Carey and James McClellan (Indianapolis: Liberty Fund, 2001), available at <http://www.constitution.org/fed/federa85.htm>

⁹ This evidence and the evidence discussed in the succeeding pages demonstrates that the Assembly has committed a serious error in concluding that an Article V application cannot request the proposal of specific amendments.



The fact that Hamilton’s statements evidence the public understanding of Article V is further supported by George Washington’s correspondence with John Armstrong in April 25, 1788. There, Washington underscores that the “constitutional door is open for *such amendments* as shall be thought necessary by *nine States*.”¹⁰ Likewise, in a statement to the Virginia ratification convention on June 6, 1788, George Nicholas wrote that state legislatures would apply for an Article V convention confined to a “few points;” and that “it is natural to conclude that those States who will apply for calling the Convention, will concur in the ratification of the proposed amendments.”¹¹ Nicholas’s conclusion is only “natural” on the assumption that a convention call would be triggered only after two-thirds of the state legislatures reached agreement on desired amendments in their applying resolutions.

Similarly, on June 11, 1788, Tench Coxe said, “[t]hree fourths of the states concurring will ensure any amendments, *after the adoption of nine or more*.”¹² Notice that this statement indicates that two-thirds of the states (the Application threshold) would *adopt* the same specific amendments.

Finally, in his 1799 Report on the Virginia Resolutions, James Madison echoed Hamilton’s earlier representations that a convention call would be triggered when two-thirds of the state legislatures “concurred” in the same amendment. Specifically, after highlighting that “Legislatures of the States have a right also to originate amendments to the Constitution, by a *concurrence* of two-thirds of the whole number, in applications to Congress for the purpose,” Madison wrote both that the states could ask their senators to propose an “explanatory amendment” clarifying that the Alien and Sedition Acts were unconstitutional, and also that two-thirds of the Legislatures of the states “might, by an application to Congress, have obtained a Convention for the *same object*.”¹³

¹⁰ The Writings of George Washington, collected and edited by Worthington Chauncey Ford, Vol. XI (1785-1790), p. 249 (New York and London: G. P. Putnam’s Sons, 1890), available at http://media.wix.com/ugd/e48202_afa4f22939c94cb58a7beea7ee966a49.pdf

¹¹ Jonathan Elliot, The Debates in the Several State Conventions of the Adoption of the Federal Constitution, vol. 3, pp. 102-03 (Virginia) (1827), available at http://media.wix.com/ugd/e48202_3718d94577904f57b48c611b18403706.pdf

¹² The Documentary History of the Ratification of the Constitution Digital Edition, ed. John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan. Charlottesville: University of Virginia Press, 2009, available at http://media.wix.com/ugd/e48202_87d69a52d785443584e6a2ce595c9069.pdf

¹³ The Writings of James Madison, comprising his Public Papers and his Private Correspondence, including his numerous letters and documents now for the first time printed, Vol. 6, pp. 403-04 (ed. Gaillard Hunt, New York: G.P. Putnam’s Sons, 1900), available at http://media.wix.com/ugd/e48202_c9fb3bdabceb4d20bfe06b78ab891153.pdf



In sum, our research shows that every significant Founder who addressed the issue assumed or specifically represented to the public that a convention call would be triggered when two-thirds of the states were united in an Application requesting a proposing convention call for the same amendments or amendment agenda. There is no evidence to our knowledge that suggests the Founders believed that a proposing convention call could be triggered by cobbling together applying resolutions seeking different amendments or amendment agendas. The necessity of concurrence in the same amendments or amendment agenda implies that the states must also concur in the same means of enforcing that agenda at the convention, if any are specified in the applying resolution.

Of course, even if the foregoing principle were accepted by the Assembly, there is no question that significant litigation risks would continue to surround the aggregation of Article V Applications. Any deviation among applying resolutions—no matter how immaterial—will create a litigation risk that an adverse party will claim the requested amendment agenda is not sufficiently similar to trigger Congress’ ministerial call duty. Additionally, applying resolutions could be viewed as going “stale” if they are not acted upon for an unreasonably long period of time. Unfortunately, we cannot assess the magnitude of these risks in the abstract because they will likely be determinable by reference to fact-specific analogies and balancing tests utilized in existing legal precedent.

Only an Article V compact can reduce these risks to nil for all practical purposes.

IV. Criteria for a Qualified Application.

As previously discussed, an “Application of the legislatures of two thirds of the several states” only comes into existence when the requisite number of states have submitted applying resolutions that concur in the same request for specific relief that is relevant to convening a proposing convention, such as the same amendment agenda. Therefore, the following minimum criteria should be expected for all applying resolutions:

- A. The specific relief requested in the underlying applying resolutions should be substantively identical such that Congress can carry out its mandatory duty to call a proposing convention ministerially through a plain reading of the text.
- B. When assessing the substantive identity of the specific relief sought by applying resolutions, the Assembly should reject the erroneous notion that specific amendment or procedural requests in an applying resolution, which are relevant to convening a



convention for proposing amendments, can be ignored as interfering with the deliberative authority of a proposing convention.

- i. The Founding Era evidence very clearly establishes that states have always had the traditional power to advance detailed requests in their applications and there is no evidence that their power in this regard was any different when it comes to an Article V Application. Research claiming that a proposing convention must have autonomous drafting or procedural authority regardless of the specific relief requested in the states' applying resolutions has no foundation in the usage, custom or practice surrounding *applications* in the Founding Era, is contrary to the drafting history of Article V, and is inconsistent with the repeated representations of the Founders that the states would adopt or concur in specific amendments when applying for a convention under Article V.
- ii. The custom and practice of pre-constitutional conventions, most of which were not called in response to applications seeking specific relief, does not logically override the traditional power of states to include specific requests for relief in their applications. Indeed, it makes no more sense to look to such custom and practice to ascertain the power of a proposing convention before looking to the relief requested in the states' application, than to look to such custom and practice to ascertain the power of a ratifying convention before looking to the ratification referral resolution. This does not mean such custom and practice is irrelevant to the powers of a proposing convention; it should certainly be considered when filling any gaps in the specificity of the relief requested by the Application.
- iii. Furthermore, Federalist No. 85 strongly supports the inference that a proposing convention was ordinarily not meant to have wide-ranging deliberative autonomy to negotiate and draft proposed amendments. Hamilton wrote, "But *every amendment* to the Constitution, if once established, would be a *single proposition*, and might be brought forward *singly*. There would then be *no necessity for management or compromise*, in relation to any other point[:] *no giving nor taking*." We can conclude that Hamilton believed the Application would be the vehicle for bringing forth proposed amendments because he later observed, "alterations in it [the Constitution] may at any time be effected by nine States." The reference to alterations being "effected by nine States," which was then the two-thirds Application threshold, indicates that Hamilton



expected a proposing convention to act at the direction of the applying states, as an instrumentality in proposing amendments specified in the Application, not as an autonomous body charged with drafting amendments from scratch.

- iv. As to the claim that there would be no need for a proposing convention if it did not possess wide-ranging autonomous drafting powers, or that a proposing convention must necessarily have more deliberative authority than a ratifying convention, this argument is specious. The proposing convention was made necessary by the limitations of 18th century technology. There was no modern instantaneous communication. Some coordinated means of ensuring that the amendment specified in the application would actually be proposed had to exist. It is perfectly sensible that a proposing convention was introduced into the language of Article V simply to ensure the necessary coordination occurred among the states, represented by their agents (delegates) at the convention, so that what was proposed actually was what the states asked-for in their application. Indeed, that is the entire reason why the next-to-final version of Article V, which had Congress proposing amendments on application of the states, was replaced with a “convention for proposing amendments.” Most of the Founders, and especially George Mason, did not trust Congress to propose the amendment or amendments that would otherwise have been advanced in the states’ application under the next-to-final formulation of Article V.

Additionally, to minimize litigation risk, the respective states that have submitted applying resolutions should officially confirm the text of the applying resolutions and their legitimacy as continuing and unrescinded applying resolutions. Confirmation can be in the form of written confirmation by appropriate state officials (governor, attorney general, etc.) and/or by reference to certified copies of specific codified statutes.

As an example, the CBB requires that at the time the 38th state joins the CBB the Compact Administrator shall submit to Congress certified copies of the chartered versions of the CBB from each member state, confirming both the validity and the text of the applying resolutions contained in the CBB. The specific relief requested is the proposal of the Balanced Budget Amendment, the text of which is also contained in the CBB.



V. Content of the Congressional Call.

To assure that the Congressional Call reflects the desires of the states, the Congressional Call should contain (or furnish a clear means of ascertaining) the following information at a minimum:

- A. Date, time and location of the proposing convention;
- B. The agenda of the proposing convention, as requested by the Application;
- C. The nature of the rules and procedures that will govern the proposing convention, if the states concur in such procedural matters in the Application;
- D. The mode of ratification for any amendments that are proposed, if the states petition for a particular mode of ratification in their Application.

As an example, all of these matters are addressed in the Compact for a Balanced Budget, which is the subject matter of H.Con.Res. 26.

VI. Process of Notifying Congress that a Call Must be Made.

The states should formally empower a common agent to represent the states before Congress to assure that the Call is made on a timely basis and in conformance with the desires of the states. As an example, the CBB empowers the Compact Commission to represent the member states before Congress on this matter.

VII. Dispute Resolution.

The states should formally designate a method for dispute resolution. As an example, the CBB designates specific court venues for resolution of disputes among the member states. In addition, the Compact Commission is empowered to 1) oversee the Convention's logistical operations as appropriate to ensure this Compact governs its proceedings; and 2) to oversee the defense and enforcement of the Compact in appropriate legal venues. These oversight powers include all essential implied power to carry them out, allowing for the Commission to furnish interpretative guidance to resolve disputes among member states.

On behalf of the CBB, the Educational Foundation appreciates this opportunity to provide testimony before the Committee and we stand ready, willing and able to assist ASL in whatever way possible.



114TH CONGRESS
1ST SESSION

H. CON. RES. 26

Effectuating the Compact for a Balanced Budget.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2015

Mr. GOSAR (for himself, Mr. DUNCAN of South Carolina, Mr. SALMON, Mr. ZINKE, Mr. JONES, Mr. CRAMER, Mr. YOUNG of Alaska, Mr. CULBERSON, Mr. BROOKS of Alabama, Mr. SCHWEIKERT, Mr. WILSON of South Carolina, Mr. NEWHOUSE, Mrs. LUMMIS, Mr. LOUDERMILK, and Mr. BRIDENSTINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Effectuating the Compact for a Balanced Budget.

1 *Resolved by the House of Representatives (the Senate*
2 *concurring),*

3 **SEC. 1. CONCURRENT RESOLUTION TO EFFECTUATE THE**
4 **COMPACT FOR A BALANCED BUDGET.**

5 (a) DECLARATION.—The Congress determines and
6 declares that this concurrent resolution calls the Conven-
7 tion contemplated by the Compact for a Balanced Budget
8 under article V of the United States Constitution, and re-
9 fers for ratification the Balanced Budget Amendment con-
10 templated by the Compact for a Balanced Budget.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this resolution is as follows:

Sec. 1. Concurrent Resolution to Effectuate the Compact for a Balanced Budget.

TITLE I—CONCURRENT RESOLUTION PROSPECTIVELY CALLING
 CONVENTION CONTEMPLATED BY COMPACT FOR A BALANCED
 BUDGET

Sec. 101. Effective date.

Sec. 102. Convention call.

Sec. 103. Termination date.

TITLE II—CONCURRENT RESOLUTION PROSPECTIVELY REFER-
 RING THE BALANCED BUDGET AMENDMENT TO STATE LEGIS-
 LATURES FOR RATIFICATION

Sec. 201. Effective date.

Sec. 202. Referral to legislatures of the several States for ratification.

3 **TITLE I—CONCURRENT RESOLU-**
 4 **TION PROSPECTIVELY CALL-**
 5 **ING CONVENTION CON-**
 6 **TEMPLATED BY COMPACT**
 7 **FOR A BALANCED BUDGET**

8 **SEC. 101. EFFECTIVE DATE.**

9 This title does not take effect until Congress receives
 10 sufficient certified conforming copies of the chaptered
 11 version of the Compact for a Balanced Budget formed ini-
 12 tially by the State of Georgia and the State of Alaska pur-
 13 suant to 2014 Georgia Laws Act 475 (H.B. 794) and
 14 2014 Alaska Laws Ch. 12 (H.B. 284), respectively, as it
 15 may be joined by additional States and amended from
 16 time to time (“Compact for a Balanced Budget”), evidenc-
 17 ing that at least three-fourths of the several States are
 18 Member States of the Compact for a Balanced Budget and

1 have made application thereunder for a convention for
2 proposing amendments under article V of the United
3 States Constitution.

4 **SEC. 102. CONVENTION CALL.**

5 Upon the effective date of this title, be it resolved
6 by the House of Representatives of the United States (the
7 Senate Concurring), Congress hereby calls a convention
8 for proposing amendments under article V of the United
9 States Constitution in accordance with the Compact for
10 a Balanced Budget.

11 **SEC. 103. TERMINATION DATE.**

12 If for any reason the convention for proposing
13 amendments under article V of the United States Con-
14 stitution contemplated herein has not permanently ad-
15 journed within one year from the effective date of this
16 title, all titles of this resolution shall become null and void
17 ab initio and shall be deemed repealed in its entirety.

1 **TITLE II—CONCURRENT RESO-**
2 **LUTION PROSPECTIVELY RE-**
3 **FERRING THE BALANCED**
4 **BUDGET AMENDMENT TO**
5 **STATE LEGISLATURES FOR**
6 **RATIFICATION**

7 **SEC. 201. EFFECTIVE DATE.**

8 This title does not take effect until Congress receives
9 a certified conforming copy of the Balanced Budget
10 Amendment, as defined by the Compact for a Balanced
11 Budget and described herein, evidencing that the conven-
12 tion for proposing amendments under article V of the
13 United States Constitution organized thereunder has ap-
14 proved and proposed the same for ratification.

15 **SEC. 202. REFERRAL TO LEGISLATURES OF THE SEVERAL**
16 **STATES FOR RATIFICATION.**

17 Upon the effective date of this title, be it resolved
18 by the House of Representatives of the United States (the
19 Senate Concurring), that the following article has been
20 proposed as an amendment to the Constitution of the
21 United States by a convention for proposing amendments
22 under article V of the United States Constitution, which
23 shall be valid to all intents and purposes as part of the
24 Constitution when ratified by the legislatures of three-

1 fourths of the several States within seven years after the
2 date of its submission for ratification:

3 “ARTICLE —

4 “SECTION 1. Total outlays of the Government of the
5 United States shall not exceed total receipts of the Gov-
6 ernment of the United States at any point in time unless
7 the excess of outlays over receipts is financed exclusively
8 by debt issued in strict conformity with this article.

9 “SECTION 2. Outstanding debt shall not exceed au-
10 thorized debt, which initially shall be an amount equal to
11 105 percent of the outstanding debt on the effective date
12 of this article. Authorized debt shall not be increased
13 above its aforesaid initial amount unless such increase is
14 first approved by the legislatures of the several States as
15 provided in section 3.

16 “SECTION 3. From time to time, Congress may in-
17 crease authorized debt to an amount in excess of its initial
18 amount set by section 2 only if it first publicly refers to
19 the legislatures of the several States an unconditional, sin-
20 gle subject measure proposing the amount of such in-
21 crease, in such form as provided by law, and the measure
22 is thereafter publicly and unconditionally approved by a
23 simple majority of the legislatures of the several States,
24 in such form as provided respectively by State law; pro-
25 vided that no inducement requiring an expenditure or tax

1 levy shall be demanded, offered or accepted as a quid pro
2 quo for such approval. If such approval is not obtained
3 within 60 calendar days after referral then the measure
4 shall be deemed disapproved and the authorized debt shall
5 thereby remain unchanged.

6 “SECTION 4. Whenever the outstanding debt exceeds
7 98 percent of the debt limit set by section 2, the President
8 shall enforce said limit by publicly designating specific ex-
9 penditures for impoundment in an amount sufficient to
10 ensure outstanding debt shall not exceed the authorized
11 debt. Said impoundment shall become effective 30 days
12 thereafter, unless Congress first designates an alternate
13 impoundment of the same or greater amount by concur-
14 rent resolution, which shall become immediately effective.
15 The failure of the President to designate or enforce the
16 required impoundment is an impeachable misdemeanor.
17 Any purported issuance or incurrence of any debt in excess
18 of the debt limit set by section 2 is void.

19 “SECTION 5. No bill that provides for a new or in-
20 creased general revenue tax shall become law unless ap-
21 proved by a two-thirds roll call vote of the whole number
22 of each House of Congress. However, this requirement
23 shall not apply to any bill that provides for a new end
24 user sales tax which would completely replace every exist-
25 ing income tax levied by the Government of the United

1 States; or for the reduction or elimination of an exemp-
 2 tion, deduction, or credit allowed under an existing general
 3 revenue tax.

4 “SECTION 6. For purposes of this article, ‘debt’
 5 means any obligation backed by the full faith and credit
 6 of the Government of the United States; ‘outstanding
 7 debt’ means all debt held in any account and by any entity
 8 at a given point in time; ‘authorized debt’ means the max-
 9 imum total amount of debt that may be lawfully issued
 10 and outstanding at any single point in time under this
 11 article; ‘total outlays of the Government of the United
 12 States’ means all expenditures of the Government of the
 13 United States from any source; ‘total receipts of the Gov-
 14 ernment of the United States’ means all tax receipts and
 15 other income of the Government of the United States, ex-
 16 cluding proceeds from its issuance or incurrence of debt
 17 or any type of liability; ‘impoundment’ means a proposal
 18 not to spend all or part of a sum of money appropriated
 19 by Congress; and ‘general revenue tax’ means any income
 20 tax, sales tax, or value-added tax levied by the Government
 21 of the United States excluding imposts and duties.

22 “SECTION 7. This article is immediately operative
 23 upon ratification, self-enforcing, and Congress may enact
 24 conforming legislation to facilitate enforcement.”.

○



LAWS OF ALASKA

2014

Source
HB 284

Chapter No.
12

AN ACT

Relating to an interstate compact on a balanced federal budget.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to an interstate compact on a balanced federal budget.

2 _____
3 * **Section 1.** AS 44.99 is amended by adding new sections to read:

4 **Article 6. Compact for a Balanced Budget.**

5 **Sec. 44.99.600. Entry into agreement.** The Compact for a Balanced Budget is
6 hereby enacted into law and entered into with all jurisdictions legally joining it in a
7 form substantially as contained in AS 44.99.610.

8 **Sec. 44.99.610. Compact terms.** The terms and provisions of the compact
9 referred to in AS 44.99.600 are as follows:

10 **COMPACT FOR A BALANCED BUDGET**

11 **ARTICLE I**

12 **DECLARATION OF POLICY, PURPOSE AND INTENT**

13 Whereas, every State enacting, adopting and agreeing to be bound by this
14 Compact intends to ensure that their respective Legislature's use of the power to
15 originate a Balanced Budget Amendment under Article V of the Constitution of the

1 United States will be exercised conveniently and with reasonable certainty as to the
2 consequences thereof.

3 Now, therefore, in consideration of their expressed mutual promises and
4 obligations, be it enacted by every State enacting, adopting and agreeing to be bound
5 by this Compact, and resolved by each of their respective Legislatures, as the case
6 may be, to exercise herewith all of their respective powers as set forth herein
7 notwithstanding any law to the contrary.

8 ARTICLE II
9 DEFINITIONS

10 Section 1. "Compact" means this "Compact for a Balanced Budget."

11 Section 2. "Convention" means the convention for proposing amendments
12 organized by this Compact under Article V of the Constitution of the United States
13 and, where contextually appropriate to ensure the terms of this Compact are not
14 evaded, any other similar gathering or body, which might be organized as a
15 consequence of Congress receiving the application set out in this Compact and claim
16 authority to propose or effectuate any amendment, alteration or revision to the
17 Constitution of the United States. This term does not encompass a convention for
18 proposing amendments under Article V of the Constitution of the United States that is
19 organized independently of this Compact based on the separate and distinct
20 application of any State.

21 Section 3. "State" means one of the several States of the United States. Where
22 contextually appropriate, the term "State" shall be construed to include all of its
23 branches, departments, agencies, political subdivisions, and officers and
24 representatives acting in their official capacity.

25 Section 4. "Member State" means a State that has enacted, adopted and agreed
26 to be bound to this Compact. For any State to qualify as a Member State with respect
27 to any other State under this Compact, each such State must have enacted, adopted and
28 agreed to be bound by substantively identical compact legislation.

29 Section 5. "Compact Notice Recipients" means the Archivist of the United
30 States, the President of the United States, the President of the United States Senate, the
31 Office of the Secretary of the United States Senate, the Speaker of the United States

1 House of Representatives, the Office of the Clerk of the United States House of
2 Representatives, the chief executive officer of each State, and the presiding officer(s)
3 of each house of the Legislatures of the several States.

4 Section 6. Notice. All notices required by this Compact shall be by U.S.
5 Certified Mail, return receipt requested, or an equivalent or superior form of notice,
6 such as personal delivery documented by evidence of actual receipt.

7 Section 7. "Balanced Budget Amendment" means the following:

8 "Article __

9 Section 1. Total outlays of the government of the United States shall not
10 exceed total receipts of the government of the United States at any point in time unless
11 the excess of outlays over receipts is financed exclusively by debt issued in strict
12 conformity with this article.

13 Section 2. Outstanding debt shall not exceed authorized debt, which initially
14 shall be an amount equal to 105 percent of the outstanding debt on the effective date
15 of this article. Authorized debt shall not be increased above its aforesaid initial amount
16 unless such increase is first approved by the legislatures of the several states as
17 provided in Section 3.

18 Section 3. From time to time, Congress may increase authorized debt to an
19 amount in excess of its initial amount set by Section 2 only if it first publicly refers to
20 the legislatures of the several states an unconditional, single subject measure
21 proposing the amount of such increase, in such form as provided by law, and the
22 measure is thereafter publicly and unconditionally approved by a simple majority of
23 the legislatures of the several states, in such form as provided respectively by state
24 law; provided that no inducement requiring an expenditure or tax levy shall be
25 demanded, offered or accepted as a quid pro quo for such approval. If such approval is
26 not obtained within sixty (60) calendar days after referral then the measure shall be
27 deemed disapproved and the authorized debt shall thereby remain unchanged.

28 Section 4. Whenever the outstanding debt exceeds 98 percent of the debt limit
29 set by Section 2, the President shall enforce said limit by publicly designating specific
30 expenditures for impoundment in an amount sufficient to ensure outstanding debt shall
31 not exceed the authorized debt. Said impoundment shall become effective thirty (30)

1 days thereafter, unless Congress first designates an alternate impoundment of the same
2 or greater amount by concurrent resolution, which shall become immediately
3 effective. The failure of the President to designate or enforce the required
4 impoundment is an impeachable misdemeanor. Any purported issuance or incurrence
5 of any debt in excess of the debt limit set by Section 2 is void.

6 Section 5. No bill that provides for a new or increased general revenue tax
7 shall become law unless approved by a two-thirds roll call vote of the whole number
8 of each House of Congress. However, this requirement shall not apply to any bill that
9 provides for a new end user sales tax which would completely replace every existing
10 income tax levied by the government of the United States; or for the reduction or
11 elimination of an exemption, deduction, or credit allowed under an existing general
12 revenue tax.

13 Section 6. For purposes of this article, "debt" means any obligation backed by
14 the full faith and credit of the government of the United States; "outstanding debt"
15 means all debt held in any account and by any entity at a given point in time;
16 "authorized debt" means the maximum total amount of debt that may be lawfully
17 issued and outstanding at any single point in time under this article; "total outlays of
18 the government of the United States" means all expenditures of the government of the
19 United States from any source; "total receipts of the government of the United States"
20 means all tax receipts and other income of the government of the United States,
21 excluding proceeds from its issuance or incurrence of debt or any type of liability;
22 "impoundment" means a proposal not to spend all or part of a sum of money
23 appropriated by Congress; and "general revenue tax" means any income tax, sales tax,
24 or value-added tax levied by the government of the United States excluding imposts
25 and duties.

26 Section 7. This article is immediately operative upon ratification, self-
27 enforcing, and Congress may enact conforming legislation to facilitate enforcement."

28 ARTICLE III

29 COMPACT MEMBERSHIP AND WITHDRAWAL

30 Section 1. This Compact governs each Member State to the fullest extent
31 permitted by their respective constitutions, superseding and repealing any conflicting

1 or contrary law.

2 Section 2. By becoming a Member State, each such State offers, promises and
3 agrees to perform and comply strictly in accordance with the terms and conditions of
4 this Compact, and has made such offer, promise and agreement in anticipation and
5 consideration of, and in substantial reliance upon, such mutual and reciprocal
6 performance and compliance by each other current and future Member State, if any.
7 Accordingly, in addition to having the force of law in each Member State upon its
8 respective effective date, this Compact and each of its Articles shall also be construed
9 as contractually binding each Member State when: (a) at least one other State has
10 likewise become a Member State by enacting substantively identical legislation
11 adopting and agreeing to be bound by this Compact; and (b) notice of such State's
12 Member State status is or has been seasonably received by the Compact
13 Administrator, if any, or otherwise by the chief executive officer of each other
14 Member State.

15 Section 3. For purposes of determining Member State status under this
16 Compact, as long as all other provisions of the Compact remain identical and
17 operative on the same terms, legislation enacting, adopting and agreeing to be bound
18 by this Compact shall be deemed and regarded as "substantively identical" with
19 respect to such other legislation enacted by another State notwithstanding: (a) any
20 difference in section 2 of Article IV with specific regard to the respectively enacting
21 State's own method of appointing its member to the Commission; (b) any difference in
22 section 5 of Article IV with specific regard to the respectively enacting State's own
23 obligation to fund the Commission; (c) any difference in section 1 and 2 of Article VI
24 with specific regard to the number and identity of each delegate respectively appointed
25 on behalf of the enacting State, provided that no more than three delegates may attend
26 and participate in the Convention on behalf of any State; or (d) any difference in
27 section 7 of Article X with specific regard to the respectively enacting State as to
28 whether section 1 of Article V of this Compact shall survive termination of this
29 Compact, and thereafter become a continuing resolution of the Legislature of such
30 State applying to Congress for the calling of a convention of the states under Article V
31 of the Constitution of the United States, under such terms and limitations as may be

1 specified by such State.

2 Section 4. When fewer than three-fourths of the States are Member States, any
3 Member State may withdraw from this Compact by enacting appropriate legislation,
4 as determined by state law, and giving notice of such withdrawal to the Compact
5 Administrator, if any, or otherwise to the chief executive officer of each other Member
6 State. A withdrawal shall not affect the validity or applicability of the compact with
7 respect to remaining Member States, provided that there remain at least two such
8 States. However, once at least three-fourths of the States are Member States, then no
9 Member State may withdraw from the Compact prior to its termination absent
10 unanimous consent of all Member States.

11 ARTICLE IV

12 COMPACT COMMISSION AND COMPACT ADMINISTRATOR

13 Section 1. Nature of the Compact Commission. The Compact Commission
14 ("Commission") is hereby established. It has the power and duty: (a) to appoint and
15 oversee a Compact Administrator; (b) to encourage States to join the Compact and
16 Congress to call the Convention in accordance with this Compact; (c) to coordinate the
17 performance of obligations under the Compact; (d) to oversee the Convention's
18 logistical operations as appropriate to ensure this Compact governs its proceedings; (e)
19 to oversee the defense and enforcement of the Compact in appropriate legal venues; (f)
20 to request funds and to disburse those funds to support the operations of the
21 Commission, Compact Administrator, and Convention; and (g) to cooperate with any
22 entity that shares a common interest with the Commission and engages in policy
23 research, public interest litigation or lobbying in support of the purposes of the
24 Compact. The Commission shall only have such implied powers as are essential to
25 carrying out these express powers and duties. It shall take no action that contravenes
26 or is inconsistent with this Compact or any law of any State that is not superseded by
27 this Compact. It may adopt and publish corresponding bylaws and policies.

28 Section 2. Commission Membership. The Commission initially consists of
29 three unpaid members. Each Member State may appoint one member to the
30 Commission through an appointment process to be determined by their respective
31 chief executive officer until all positions on the Commission are filled. Positions shall

1 be assigned to appointees in the order in which their respective appointing States
2 became Member States. The bylaws of the Commission may expand its membership
3 to include representatives of additional Member States and to allow for modest
4 salaries and reimbursement of expenses if adequate funding exists.

5 Section 3. Commission Action. Each Commission member is entitled to one
6 vote. The Commission shall not act unless a majority of its appointed membership is
7 present, and no action shall be binding unless approved by a majority of the
8 Commission's appointed membership. The Commission shall meet at least once a
9 year, and may meet more frequently.

10 Section 4. First Order of Business. The Commission shall at the earliest
11 possible time elect from among its membership a Chairperson, determine a primary
12 place of doing business, and appoint a Compact Administrator.

13 Section 5. Funding. The Commission and the Compact Administrator's
14 activities shall be funded exclusively by each Member State, as determined by their
15 respective state law, or by voluntary donations.

16 Section 6. Compact Administrator. The Compact Administrator has the power
17 and duty: (a) to timely notify the States of the date, time and location of the
18 Convention; (b) to organize and direct the logistical operations of the Convention; (c)
19 to maintain an accurate list of all Member States, their appointed delegates, including
20 contact information; and (d) to formulate, transmit, and maintain all official notices,
21 records, and communications relating to this Compact. The Compact Administrator
22 shall only have such implied powers as are essential to carrying out these express
23 powers and duties; and shall take no action that contravenes or is inconsistent with this
24 Compact or any law of any State that is not superseded by this Compact. The Compact
25 Administrator serves at the pleasure of the Commission and must keep the
26 Commission seasonably apprised of the performance or nonperformance of the terms
27 and conditions of this Compact. Any notice sent by a Member State to the Compact
28 Administrator concerning this Compact shall be adequate notice to each other Member
29 State provided that a copy of said notice is seasonably delivered by the Compact
30 Administrator to each other Member State's respective chief executive officer.

31 Section 7. Notice of Key Events. Upon the occurrence of each of the following

1 described events, or otherwise as soon as possible, the Compact Administrator shall
2 immediately send the following notices to all Compact Notice Recipients, together
3 with certified conforming copies of the chaptered version of this Compact as
4 maintained in the statutes of each Member State: (a) whenever any State becomes a
5 Member State, notice of that fact shall be given; (b) once at least three-fourths of the
6 States are Member States, notice of that fact shall be given together with a statement
7 declaring that the Legislatures of at least two-thirds of the several States have applied
8 for a convention for proposing amendments under Article V of the Constitution of the
9 United States, petitioning Congress to call the Convention contemplated by this
10 Compact, and further requesting cooperation in organizing the same in accordance
11 with this Compact; (c) once Congress has called the Convention contemplated by this
12 Compact, and whenever the date, time and location of the Convention has been
13 determined, notice of that fact shall be given together with the date, time and location
14 of the Convention and other essential logistical matters; (d) upon approval of the
15 Balanced Budget Amendment by the Convention, notice of that fact shall be given
16 together with the transmission of certified copies of such approved proposed
17 amendment and a statement requesting Congress to refer the same for ratification by
18 three-fourths of the Legislatures of the several States under Article V of the
19 Constitution of the United States (however, in no event shall any proposed amendment
20 other than the Balanced Budget Amendment be transmitted); and (e) when any Article
21 of this Compact prospectively ratifying the Balanced Budget Amendment is effective
22 in any Member State, notice of the same shall be given together with a statement
23 declaring such ratification and further requesting cooperation in ensuring that the
24 official record confirms and reflects the effective corresponding amendment to the
25 Constitution of the United States. However, whenever any Member State enacts
26 appropriate legislation, as determined by the laws of the respective state, withdrawing
27 from this Compact, the Compact Administrator shall immediately send certified
28 conforming copies of the chaptered version of such withdrawal legislation as
29 maintained in the statutes of each such withdrawing Member State, solely to each
30 chief executive officer of each remaining Member State, giving notice of such
31 withdrawal.

1 immediately vacate the Convention and return to delegate's respective State's capitol.

2 Section 4. Oath. The power and authority of a delegate under this Article may
3 only be exercised after the Convention is first called by Congress in accordance with
4 this Compact and such appointment is duly accepted by such appointee publicly taking
5 the following oath or affirmation: "I do solemnly swear (or affirm) that I accept this
6 appointment and will act strictly in accordance with the terms and conditions of the
7 Compact for a Balanced Budget, the Constitution of the State I represent, and the
8 Constitution of the United States. I understand that violating this oath (or affirmation)
9 forfeits my appointment and may subject me to other penalties as provided by law."

10 Section 5. Term. The term of a delegate hereunder commences upon
11 acceptance of appointment and terminates upon the permanent adjournment of the
12 Convention, unless shortened by recall, replacement or forfeiture under this Article.
13 Upon expiration of such term, any person formerly serving as a delegate must
14 immediately withdraw from and cease participation at the Convention, if any is
15 proceeding.

16 Section 6. Delegate Authority. The power and authority of any delegate
17 appointed hereunder is strictly limited: (a) to introducing, debating, voting upon,
18 proposing and enforcing the Convention Rules specified in this Compact, as needed to
19 ensure those rules govern the Convention; and (b) to introducing, debating, voting
20 upon, and rejecting or proposing for ratification the Balanced Budget Amendment. All
21 actions taken by any delegate in violation of this section are void ab initio.

22 Section 7. Delegate Authority. No delegate of any Member State may
23 introduce, debate, vote upon, reject or propose for ratification any constitutional
24 amendment at the Convention unless: (a) the Convention Rules specified in this
25 Compact govern the Convention and their actions; and (b) the constitutional
26 amendment is the Balanced Budget Amendment.

27 Section 8. Delegate Authority. The power and authority of any delegate at the
28 Convention does not include any power or authority associated with any other public
29 office held by the delegate. Any person appointed to serve as a delegate shall take a
30 temporary leave of absence, or otherwise shall be deemed temporarily disabled, from
31 any other public office held by the delegate while attending the Convention, and may

1 not exercise any power or authority associated with any other public office held by the
2 delegate while attending the Convention. All actions taken by any delegate in violation
3 of this section are void ab initio.

4 Section 9. Order of Business. Before introducing, debating, voting upon,
5 rejecting or proposing for ratification any constitutional amendment at the Convention,
6 each delegate of every Member State must first ensure the Convention Rules in this
7 Compact govern the Convention and their actions. Every delegate and each Member
8 State must immediately vacate the Convention and notify the Compact Administrator
9 by the most effective and expeditious means if the Convention Rules in this Compact
10 are not adopted to govern the Convention and their actions.

11 Section 10. Forfeiture of Appointment. If any Member State or delegate
12 violates any provision of this Compact, then every delegate of that Member State
13 immediately forfeits his or her appointment, and shall immediately cease participation
14 at the Convention, vacate the Convention, and return to his or her respective State's
15 capitol.

16 Section 11. Expenses. A delegate appointed hereunder is entitled to
17 reimbursement of reasonable expenses for attending the Convention from his or her
18 respective Member State. No delegate may accept any other form of remuneration or
19 compensation for service under this Compact.

20 ARTICLE VII

21 CONVENTION RULES

22 Section 1. Nature of the Convention. The Convention shall be organized,
23 construed and conducted as a body exclusively representing and constituted by the
24 several States.

25 Section 2. Agenda of the Convention. The agenda of the Convention shall be
26 entirely focused upon and exclusively limited to introducing, debating, voting upon,
27 and rejecting or proposing for ratification the Balanced Budget Amendment under the
28 Convention Rules specified in this Article and in accordance with the Compact. It
29 shall not be in order for the Convention to consider any matter that is outside the scope
30 of this agenda.

31 Section 3. Delegate Identity and Procedure. States shall be represented at the

1 Convention through duly appointed delegates. The number, identity and authority of
2 delegates assigned to each State shall be determined by this Compact in the case of
3 Member States or, in the case of States that are not Member States, by their respective
4 state laws. However, to prevent disruption of proceedings, no more than three
5 delegates may attend and participate in the Convention on behalf of any State. A
6 certified chaptered conforming copy of this Compact, together with government-
7 issued photographic proof of identification, shall suffice as credentials for delegates of
8 Member States. Any commission for delegates of States that are not Member States
9 shall be based on their respective state laws, but it shall furnish credentials that are at
10 least as reliable as those required of Member States.

11 Section 4. Voting. Each State represented at the Convention shall have one
12 vote, exercised by the vote of that State's delegate in the case of States represented by
13 one delegate, or, in the case of any State that is represented by more than one delegate,
14 by the majority vote of that State's respective delegates.

15 Section 5. Quorum. A majority of the several States of the United States, each
16 present through its respective delegate in the case of any State that is represented by
17 one delegate, or through a majority of its respective delegates, in the case of any State
18 that is represented by more than one delegate, shall constitute a quorum for the
19 transaction of any business on behalf of the Convention.

20 Section 6. Action by the Convention. The Convention shall only act as a
21 committee of the whole chaired by the delegate representing the first State to have
22 become a Member State, if that State is represented by one delegate, or otherwise by
23 the delegate chosen by the majority vote of that State's respective delegates. The
24 transaction of any business on behalf of the Convention, including the designation of a
25 Secretary, the adoption of parliamentary procedures and the rejection or proposal of
26 any constitutional amendment, requires a quorum to be present and a majority
27 affirmative vote of those States constituting the quorum.

28 Section 7. Emergency Suspension and Relocation of the Convention. In the
29 event that the Chair of the Convention declares an emergency due to disorder or an
30 imminent threat to public health and safety prior to the completion of the business on
31 the Agenda, and a majority of the States present at the Convention do not object to

1 such declaration, further Convention proceedings shall be temporarily suspended, and
2 the Commission shall subsequently relocate or reschedule the Convention to resume
3 proceedings in an orderly fashion in accordance with the terms and conditions of this
4 Compact with prior notice given to the Compact Notice Recipients.

5 Section 8. Parliamentary Procedure. In adopting, applying and formulating
6 parliamentary procedure, the Convention shall exclusively adopt, apply or
7 appropriately adapt provisions of the most recent editions of Robert's Rules of Order
8 and the American Institute of Parliamentarians Standard Code of Parliamentary
9 Procedure. In adopting, applying or adapting parliamentary procedure, the Convention
10 shall exclusively consider analogous precedent arising within the jurisdiction of the
11 United States. Parliamentary procedures adopted, applied or adapted pursuant to this
12 section shall not obstruct, override, or otherwise conflict with this Compact.

13 Section 9. Transmittal. Upon approval of the Balanced Budget Amendment by
14 the Convention to propose for ratification, the Chair of the Convention shall
15 immediately transmit certified copies of such approved proposed amendment to the
16 Compact Administrator and all Compact Notice Recipients, notifying them
17 respectively of such approval and requesting Congress to refer the same for
18 ratification by the States under Article V of the Constitution of the United States.
19 However, in no event shall any proposed amendment other than the Balanced Budget
20 Amendment be transmitted as aforesaid.

21 Section 10. Transparency. Records of the Convention, including the identities
22 of all attendees and detailed minutes of all proceedings, shall be kept by the Chair of
23 the Convention or Secretary designated by the Convention. All proceedings and
24 records of the Convention shall be open to the public upon request subject to
25 reasonable regulations adopted by the Convention that are closely tailored to
26 preventing disruption of proceedings under this Article.

27 Section 11. Adjournment of the Convention. The Convention shall
28 permanently adjourn upon the earlier of twenty-four (24) hours after commencing
29 proceedings under this Article or the completion of the business on its Agenda.

30 ARTICLE VIII

31 PROHIBITION ON ULTRA VIRES CONVENTION

1 Section 1. Member States shall not participate in the Convention unless: (a)
2 Congress first calls the Convention in accordance with this Compact; and (b) the
3 Convention Rules of this Compact are adopted by the Convention as its first order of
4 business.

5 Section 2. Any proposal or action of the Convention is void ab initio and
6 issued by a body that is conducting itself in an unlawful and ultra vires fashion if that
7 proposal or action: (a) violates or was approved in violation of the Convention Rules
8 or the delegate instructions and limitations on delegate authority specified in this
9 Compact; (b) purports to propose or effectuate a mode of ratification that is not
10 specified in Article V of the Constitution of the United States; or (c) purports to
11 propose or effectuate the formation of a new government. All Member States are
12 prohibited from advancing or assisting in the advancement of any such proposal or
13 action.

14 Section 3. Member States shall not ratify or otherwise approve any proposed
15 amendment, alteration or revision to the Constitution of the United States, which
16 originates from the Convention, other than the Balanced Budget Amendment.

17 ARTICLE IX

18 RESOLUTION PROSPECTIVELY RATIFYING THE BALANCED BUDGET

19 AMENDMENT

20 Section 1. Each Member State, by and through its respective Legislature,
21 hereby adopts and ratifies the Balanced Budget Amendment.

22 Section 2. This Article does not take effect until Congress effectively refers the
23 Balanced Budget Amendment to the States for ratification by three-fourths of the
24 Legislatures of the several States under Article V of the Constitution of the United
25 States.

26 ARTICLE X

27 CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY

28 Section 1. To the extent that the effectiveness of this Compact or any of its
29 Articles or provisions requires the alteration of local legislative rules, drafting policies,
30 or procedure to be effective, the enactment of legislation enacting, adopting and
31 agreeing to be bound by this Compact shall be deemed to waive, repeal, supersede, or

1 otherwise amend and conform all such rules, policies or procedures to allow for the
2 effectiveness of this Compact to the fullest extent permitted by the constitution of any
3 affected Member State.

4 Section 2. Date and Location of the Convention. Unless otherwise specified by
5 Congress in its call, the Convention shall be held in Dallas, Texas and commence
6 proceedings at 9:00 a.m. Central Standard Time on the sixth Wednesday after the
7 latter of the effective date of Article V of this Compact or the enactment date of the
8 Congressional resolution calling the Convention.

9 Section 3. In addition to all other powers and duties conferred by state law
10 which are consistent with the terms and conditions of this Compact, the chief law
11 enforcement officer of each Member State is empowered to defend the Compact from
12 any legal challenge, as well as to seek civil mandatory and prohibitory injunctive relief
13 to enforce this Compact; and shall take such action whenever the Compact is
14 challenged or violated.

15 Section 4. The exclusive venue for all actions in any way arising under this
16 Compact shall be in the United States District Court for the Northern District of Texas
17 or the courts of the State of Texas within the jurisdictional boundaries of the foregoing
18 district court. Each Member State shall submit to the jurisdiction of said courts with
19 respect to such actions. However, upon written request by the chief law enforcement
20 officer of any Member State, the Commission may elect to waive this provision for the
21 purpose of ensuring an action proceeds in the venue that allows for the most
22 convenient and effective enforcement or defense of this Compact. Any such waiver
23 shall be limited to the particular action to which it is applied and not construed or
24 relied upon as a general waiver of this provision. The waiver decisions of the
25 Commission under this provision shall be final and binding on each Member State.

26 Section 5. The effective date of this Compact and any of its Articles is the
27 latter of: (a) the date of any event rendering the same effective according to its
28 respective terms and conditions; or (b) the earliest date otherwise permitted by law.

29 Section 6. Article VIII of this Compact is hereby deemed non-severable prior
30 to termination of the Compact. However, if any other phrase, clause, sentence or
31 provision of this Compact, or the applicability of any other phrase, clause, sentence or

1 provision of this Compact to any government, agency, person or circumstance, is
2 declared in a final judgment to be contrary to the Constitution of the United States,
3 contrary to the state constitution of any Member State, or is otherwise held invalid by
4 a court of competent jurisdiction, such phrase, clause, sentence or provision shall be
5 severed and held for naught, and the validity of the remainder of this Compact and the
6 applicability of the remainder of this Compact to any government, agency, person or
7 circumstance shall not be affected. Furthermore, if this Compact is declared in a final
8 judgment by a court of competent jurisdiction to be entirely contrary to the state
9 constitution of any Member State or otherwise entirely invalid as to any Member
10 State, such Member State shall be deemed to have withdrawn from the Compact, and
11 the Compact shall remain in full force and effect as to any remaining Member State.
12 Finally, if this Compact is declared in a final judgment by a court of competent
13 jurisdiction to be wholly or substantially in violation of Article I, Section 10, of the
14 Constitution of the United States, then it shall be construed and enforced solely as
15 reciprocal legislation enacted by the affected Member State(s).

16 Section 7. Termination. This Compact shall terminate and be held for naught
17 when the Compact is fully performed and the Constitution of the United States is
18 amended by the Balanced Budget Amendment. However, notwithstanding anything to
19 the contrary set forth in this Compact, in the event such amendment does not occur
20 within seven (7) years after the first State passes legislation enacting, adopting and
21 agreeing to be bound to this Compact, the Compact shall terminate as follows: (a) the
22 Commission shall dissolve and wind up its operations within ninety (90) days
23 thereafter, with the Compact Administrator giving notice of such dissolution and the
24 operative effect of this section to the Compact Notice Recipients; and (b) upon the
25 completed dissolution of the Commission, this Compact shall be deemed terminated,
26 repealed, void ab initio, and held for naught.


27 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 REVISOR'S INSTRUCTION. Notwithstanding AS 01.05.031(c), the revisor of
30 statutes is instructed not to edit or revise the text of the compact in AS 44.99.610, enacted by
31 sec. 1 of this Act, so as to avoid the use of pronouns denoting masculine or feminine gender.

AUTHENTICATION

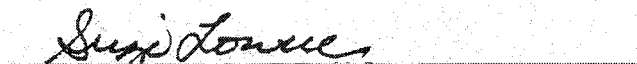
The following officers of the Legislature certify that the attached enrolled bill, HB 284, consisting of 16 pages, was passed in conformity with the requirements of the constitution and laws of the State of Alaska and the Uniform Rules of the Legislature.

Passed by the House March 19, 2014

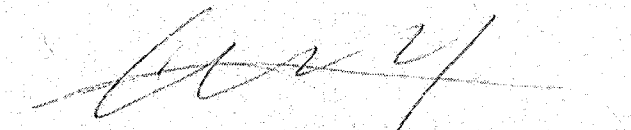


Mike Chenault, Speaker of the House

ATTEST:



Suzi Lowell, Chief Clerk of the House

Passed by the Senate April 17, 2014



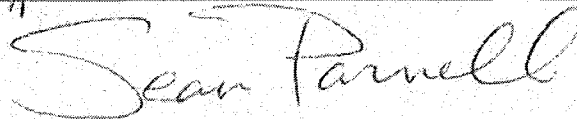
Charlie Huggins, President of the Senate

ATTEST:


Liz Clark, Secretary of the Senate

Approved by the Governor

April 22nd 20 14



Sean Parnell, Governor of Alaska