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NATIONAL FEDERALISM COMMISSION
STATE LEGISLATURES AT WORK

COMPACT FOR A "SAFE AND EQUAL CONVENTION FOR PROPOSING ADMENDMENTS"

A JOINT RESOLUTION

An interstate compact creating a binding agreement between the Member States to instruct their respective delegations to vote for two rules at a Convention for Proposing Amendments called under Article V of the Constitution of the United States; to wit: that the convention shall not consider amendment proposals on any topic beyond those specified in the applications submitted by the legislatures of at least two-thirds of the several States which were the basis of the call of the Convention; and that all voting at said Convention shall be on the basis of one-state, one-vote.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF _____

WHEREAS, The Framers of the Constitution of the United States empowered State Legislatures to be guardians of liberty by giving said bodies the power to propose amendments to the Constitution by calling for a Convention for Proposing Amendments whenever two-thirds of the several States apply for a convention for the same topic or purpose; and

WHEREAS, The Legislatures of each State have the sole power and discretion to name their delegates and to give them such instructions as may be necessary and lawful; and

WHEREAS, The history surrounding the ratification of the Constitution and the first uses of the States' Article V power clearly demonstrate that said assemblies were described as a Convention for Proposing Amendments; and

WHEREAS, It is inherent in the nature of such a Convention, as a meeting of equal sovereigns, that the States vote on the basis of equality; and

WHEREAS, The agreement between the States concerning the subject matter of a Convention for Proposing Amendments is demonstrated by two-thirds of the several States applying for a convention for the same purpose(s) or topic(s); and

WHEREAS, Litigation surrounding the attempt by Congress to change the deadline for the ratification of the proposed Equal Rights Amendment has established a clear rule that once a given phase of the Article V amendment process has been completed, its product cannot be altered;[1] and

WHEREAS, The Supreme Court has recognized that States have the inherent power to form agreements between themselves for mutually beneficial purposes;[2] and

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[1] *See Illinois v. Ferriero*, 60 F.4th 704 (D.C. Cir. 2023); *Valame v. Biden*, No. 23-CV-03018-NC, 2024 WL 251415, at *3 (N.D. Cal. Jan. 20, 2024), *aff'd sub nom. Valame v. Trump*, No. 24-369, 2025 WL 1983954 (9th Cir. July 17, 2025); *State of Idaho v. Freeman*, 529 F. Supp. 1107, 1153 (D. Idaho 1981), vacated sub nom. *Nat'l Org. for Women, Inc. v. Idaho*, 459 U.S. 809 (1982) (mootness)

[2] *See*, *e.g.*, *People of State of N. Y. v. O'Neill*, 359 U.S. 1, 6 (1959) ("The Constitution did not purport to exhaust imagination and resourcefulness in devising fruitful interstate relationships. It is not to be construed to limit the variety of arrangements which are possible through the voluntary and cooperative actions of individual States with a view to increasing harmony within the federalism created by the Constitution. Far from being devisive, this legislation is a catalyst of cohesion. It is within the unrestricted area of action left to the States by the Constitution.").

WHEREAS, The Compact Clause of the Constitution of the United States (Art. I, Sec. 10, Cl. 3) affirms the sovereign power of the several States to enter into binding, enforceable agreements; and

WHEREAS, The Supreme Court of the United States has repeatedly affirmed that an interstate compact does not require congressional approval "if it does not impermissibly enhance state power at the expense of federal supremacy."[3]; and

WHEREAS, Congress has no power to name, control, or instruct any State's delegates to a Convention for Proposing Amendments; and

WHEREAS, Congress has no power to change the inherent rule that all voting at a Convention for Proposing Amendments shall be on the basis of the equal sovereignty of the States, to wit: one-state, one-vote; and

WHEREAS, Congress has no power to designate topics for a Convention for Proposing Amendments , but rather has a ministerial duty to call the Convention upon receipt of applications from two-thirds of the several States for a Convention to propose amendments on the same topic(s) or subject(s); and

WHEREAS, The Member States to this Compact wish to affirm the two inherent rules so that all States will be empowered to exercise their Article V power to apply for a Convention with assurance that the topic or subject matter of the Convention may not be changed by Congress, any State, or the Convention itself, and that States will vote as States, enjoying equal suffrage at the Convention; and

[3] *U. S. Steel Corp. v. Multistate Tax Comm'n*, 434 U.S. 452, 472 (1978).

WHEREAS, This Compact is applicable to any Convention for Proposing Amendments no matter the topic(s) or subject(s) for which it is called; now therefore be it

RESOLVED, The General Assembly of _____ hereby adopts the following Compact for the purpose of entering into a binding agreement between itself and other Member States to instruct their delegates to any Convention for Proposing Amendments called under Article V of the Constitution of the United States in accordance with the terms of this Compact:

COMPACT FOR A "SAFE AND EQUAL CONVENTION FOR PROPOSING ADMENDMENTS"

ARTICLE I

DECLARATION OF POLICY, PURPOSE, AND INTENT

Whereas, every State adopting this Compact and agreeing to be bound thereby intends to ensure that at any Convention for Proposing Amendments, called for any purpose, that two inherent Article V Convention rules are followed without exception, to wit: that all voting is conducted on the basis of one-state, one-vote; and that said Convention shall not consider any proposed amendment on any topic other than such topic(s) or subject(s) specifically enumerated in the applications of two-thirds of the several States which formed the basis for the call of the Convention,

Now, therefore, in consideration of their expressed mutual promises and obligations, be it firmly resolved and adopted by every State approving this Compact that said State agrees to be bound thereby notwithstanding any law to the contrary.

ARTICLE II

DEFINITIONS

Section 1. “Compact” means this “Compact for a Safe and Equal Convention for Proposing Amendments” called under Article V of the Constitution of the United States.

Section 2. “Commission” means the formal resolution, enactment, or other document which sets forth the identity of a State’s delegates to a Convention, establishes their credentials, and provides specific instructions as to how they shall vote or otherwise perform their duties at the Convention.

Section 3. “Convention” or “Convention for Proposing Amendments” means any Convention called under Article V of the United States Constitution upon submission of applications for a Convention to propose amendments on a particular topic or topics from two-thirds of the several States.

Section 4. “State” means one of the several States of the United States. In the context of Article V, the State may only act through its state legislative body. No other official or agency, including, but not limited to the Governor of any state, may take any action for the State as it pertains to the exercise of Article V power—a matter reserved by the text of the Constitution exclusively for the legislature of each State.

Section 5. “Member State” means a State that has adopted this Compact through resolution or such other legislative vehicle as it normally employs when it exercises power under Article V of the Constitution to apply for a Convention for Proposing Amendments or to ratify a proposed amendment to the Constitution of the United States. For any State to qualify as a Member State with respect to any other State under this Compact, each such State must have adopted and agreed to be bound by substantially identical compact language.

ARTICLE III

AGREEMENT TO INSTRUCT

Section 1. Each State shall instruct and bind each member of its delegation to a Convention to vote for and take any and all appropriate action necessary to ensure the adoption of and faithful compliance with the following three rules for a Convention for Proposing Amendments:

> Rule 1. All voting at any Convention shall be on the basis of one-state, one-vote.
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> Rule 2. No proposed amendment to the Constitution of the United States may be introduced, reviewed, debated, or adopted if it is outside the scope of the topic(s) or subject(s) which are established by the applications of at least two-thirds of the several States which led to the calling of the Convention.
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> Rule 3. Neither Rule 1 nor Rule 2, nor this Rule, may be amended, repealed, overridden, or otherwise avoided in any manner by any other motion, action, rule, vote by the Convention, or by a ruling of the presiding officer.

Section 2. Nothing in this Compact shall limit the power of a State to instruct or bind its delegation in any other manner not inconsistent with this Compact.

Section 3. Nothing in this section prohibits any State from adopting other legal sanctions, penalties, or punishments for any delegate who acts unfaithfully in violation of his duties, instructions, or other obligations.

ARTICLE IV

DELEGATE COMMISSIONS AND OATHS

Section 1. The Commission of each Member State delegate shall include the Member State's instructions to the delegate to vote for and take any and all appropriate action necessary to ensure the adoption of and faithful compliance with the Rules set forth in Article III, above, explicitly listing said Rules.

Section 2. The Commission of each Member State delegate shall state that any action taken by said delegate in violation of Article III shall be void as an *ultra vires* action, according to common law principles of agency.

Section 3. Upon receiving his or her Commission, each delegate shall sign an oath that includes an acknowledgement that he or she shall be subject to immediate removal from the State's delegation by the legislature or its oversight authority, if said delegate fails to comply with Article III in any manner.

ARTICLE V

ENTRY INTO FORCE

This Compact shall enter into force when twenty-six States have adopted it.

ARTICLE VI

WITHDRAWAL FROM THIS COMPACT

Section 1. A State may withdraw from this Compact only with twelve months' notice to the presiding officers of both houses of the legislatures of all Member States, even if the Compact has not entered into force. Withdrawal shall be accomplished exclusively through the same form of legislative action that was employed for the initial adoption of this Compact.

Section 2. Notwithstanding Section 1 of this Article, no Member State may withdraw from this Compact after the date of the passage of the thirty-fourth application for a Convention for Proposing Amendments on the same topic(s) or subject(s).

ARTICLE VII

WAIVER OF SOVEREIGN IMMUNITY

Each Member State expressly waives sovereign immunity for any action by any other Member State(s) to enforce this Compact in any court with lawful jurisdiction of the subject matter.

RESOLVED FURTHER, The Clerk of the House of Representatives of this State is hereby directed to transmit duly authenticated copies of this Compact to the presiding officers of each house of the legislatures of all sister States. Furthermore, as a courtesy, the Clerk is directed to transmit duly authenticated copies to the presiding officers of each house of the Congress of the United States, as well as to the National Federalism Commission.