

CS FOR SENATE CONCURRENT RESOLUTION NO. 4(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 2/10/16

Referred: Finance

Sponsor(s): SENATORS STOLTZE, Dunleavy, Kelly, Coghill, Giessel, Huggins, McGuire

A RESOLUTION

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

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

12 **WHEREAS**, under the authority of art. V, Constitution of the United States, the
13 legislature has applied to the United States Congress to call a convention of the states to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **FURTHER RESOLVED** that the reestablishment of the Delegate Credential
4 Committee shall be evaluated during the First Regular Session of the Thirtieth Alaska State
5 Legislature and by subsequent legislatures, and the legislature shall determine whether the
6 Delegate Credential Committee shall continue; and be it

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

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

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

20 (1) decide all matters among committee members by a vote of a majority of
21 the full membership of the committee;

22 (2) function as the official facilitator for the legislature as required in this
23 resolution;

24 (3) appoint delegates, subject to approval by the legislature, to the convention
25 and, within 10 business days after appointment, provide a committee report of the
26 appointment to the house chief clerk and senate secretary;

27 (4) appoint one delegate to serve as the chair of Alaska's state delegation and
28 another delegate as the assistant chair;

29 (5) issue to each approved delegate and alternate, including the chair and
30 assistant chair, certification that the delegate has satisfactorily

31 (A) met the requisite qualifications established by the legislature;

1 (B) taken the applicable oath in sec. A(8) of this resolution; and

2 (C) confirmed the delegate's oath by signing a separate pledge
3 document;

4 (6) issue to each certified delegate and alternate, including the chair and
5 assistant chair, a convention pass to the convention;

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

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

10 DELEGATES' AND DELEGATE ALTERNATES' OATHS

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

17 CHAIR AND ASSISTANT CHAIR OF ALASKA'S STATE DELEGATION
18 OATHS

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

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

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

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

1 (12) make reports, at least quarterly or more frequently if necessary, to the
2 legislature by submitting committee reports to the secretary of the senate and chief clerk of
3 the house of representatives regarding the events at the convention, upcoming events, and
4 progress and prospects for ratification of the countermand amendment by the delegations;
5 make appropriate recommendations to the legislature on actions needed to ensure the
6 favorable vote by the state delegations to send the countermand amendment, as provided in
7 sec. E of this resolution, to the states, by way of the United States Congress, for ratification;

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

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

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

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

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

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

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

31 (5) assign to Alaska's delegates the following duties: assign to each delegate a

1 proportionate number of delegates from other state delegations for the purpose of gaining
2 consensus and agreement that the countermand amendment, as herein written, should be sent
3 to the states for ratification;

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

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

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

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

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

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

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

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

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

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

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

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

5 (ii) to follow the terms, directives, and requirements in this
6 resolution;

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (xvi) to call for a vote to decide which method of ratification
6 the convention recommends to United States Congress, whether by state
7 legislatures or state conventions; recommend to the convention that ratification
8 should be by legislatures; resolution delegations are required to vote for
9 ratification through state legislatures;

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

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

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

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

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

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

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

1 convention;

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

4 SECTION C. DUTIES AND RESPONSIBILITIES OF DELEGATES. The delegates
5 will be required to follow the directives in this resolution and others that may, from time to
6 time, be issued by the legislature; each delegate is charged with the following duties:

7 (1) comply with directives made under this resolution;

8 (2) follow the reasonable instructions of the chair and assistant chair of
9 Alaska's state delegation that are consistent with the duties set out in this resolution;

10 (3) be amenable to the advice of the president of the convention when the
11 president is from a resolution state; if the president is from a non-resolution state, work
12 closely with the chair to find resolutions that are consistent with this resolution;

13 (4) work to advance all the requirements and directives in this resolution;

14 (5) be subject to dismissal from the state delegation for violation of this
15 resolution;

16 (6) be bound by this resolution to vote at all state delegation roll calls
17 consistent with directives given to the chair in sec. B of this resolution, which includes
18 sending the countermand amendment, as herein written, to the states for ratification by way of
19 the United States Congress;

20 (7) attend all assigned business sessions at the convention;

21 (8) help the chair to successfully complete the instructions in sec. B of this
22 resolution;

23 (9) attend all meetings scheduled by the chair and

24 (A) report to the chair the results of the delegate's work among other
25 state delegates;

26 (B) assess and report to the chair the number of states that plan to vote
27 in favor of the countermand amendment;

28 (C) assess and report to the chair any problems or opportunities that
29 may have developed or might develop relating to the purposes of this resolution;

30 (D) recommend to the chair other strategies that may help join with at
31 least 26 other states to vote favorably for the countermand amendment at the

1 convention.

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

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

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

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

12 "COUNTERMAND AMENDMENT

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

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

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

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

31 "**Section 4.** Each State Legislature shall complete their Countermand

1 affidavit and deliver a certified copy to the Chief Justice of the United States
2 Supreme Court, the Leader of the United States Senate, the Speaker of the
3 House of Representatives, the President of the United States, and when
4 applicable the Government Agency or Body that is being challenged.

5 "Section 5. Congress shall have the power to enforce this Article by
6 appropriate legislation.

7 "Section 6. Individual States shall have authority to prosecute violators
8 of this Article under State laws in the absence of Federal prosecution after 90
9 days from the date of the alleged violation. Multiple prosecutions, by multiple
10 States, for the same alleged crime are prohibited.

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

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

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