



## 2015 FL COS Article V Simulation Program

2102 Bell Shoals Rd, Brandon, FL 33511  
Special Events Center

**A Convention of States to:  
Impose Fiscal Restraints on the Federal Government,  
Limit the Power and Jurisdiction of the Federal Government, and  
Impose Term Limits on its Officials**

Designed by Convention of States Project  
Sponsored by American Heritage Today

Program Overview for Commissioners

## **Introduction**

Thank you for participating in 2015 FL COS Article V Simulation Program.

Because the Convention of States movement is becoming more and more prevalent in political discourse, it is important that Floridian leaders in the fields of Education and Government be educated on the text of Article V, the rules that would govern such a convention and what kinds of amendments could be proposed.

Thomas Jefferson stated that, "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power."

It is our goal that the participants (henceforth called *commissioners*) in this program be enlightened and educated to discuss courageously the issues that plague our Constitutional Republic. An Article V convention will resolve these issues and truly correct the present abuses of constitutional power.

## **Simulation Objectives**

The Article V Simulation Program is designed to enable concerned COS supporters and volunteers to develop from this program:

1. An understanding of the founders' design for the interplay between state and federal governance.
2. A working knowledge of the Article V Convention of States process, including why the founders included it in the Constitution & the constraints imposed on such a convention.
3. Motivation to consider how amendments can be used to solve problems and curb abuses.
4. Renewed interest in involvement in our republican form of government.
5. Freedom from the paralyzing notion that "there are no Jeffersons or Madisons" in our age.

## **Prerequisites**

All commissioners should have a working understanding of the following key materials and concepts:

1. The Constitution of the United States, especially Articles I-III with emphasis on the separation of powers, and checks & balances.
2. The Bill of Rights, especially the 10th Amendment, with emphasis on the United States as a republic not a democracy.
3. The states' intended function as a bulwark against federal overreach.
4. Supreme Court cases that have interpreted the language of the Constitution to create the government as it functions today.

## Program Structure

The program is designed in such a way that after the prerequisites have been met, everything else flows naturally. The program is divided into the following main components:

- I. Preliminary Activities** that include an overview of the Article V Convention of States process and dividing into state delegations.
- II. Issues Orientation** that includes research on long-standing national issues that may be ameliorated by amending the Constitution, and the formation of issue-specific committees.
- III. Committee work: drafting and refining amendments** that can help solve the problems identified in Part II
- IV. Coalitions exercises** in which commissioners will build support for their preferred amendments.
- V. Debate and vote** for the best amendments on the floor of the convention.

Each of these areas has its own supplementary materials to help you make the simulation as realistic and engaging experience as possible.

### I: Preliminary Activities

#### A. Learn about Article V

It is critical that commissioners acquire a working knowledge of Article V before participating in the Simulation. There are many resources available addressing this key part of the Constitution; however, not all deal accurately or fairly with the convention of states section of Article V. The resources listed in Appendix A, “Learn About Article V” are recommended. In Appendix C are relevant Supreme Court cases.

#### B. Organize Into State Delegations

The next step is to split the commissioners into state delegations; the number of states and sizes of the delegations will be driven primarily by the number of participants. The states for the 2014 simulation were chosen to include at least one state from each region, i.e., a Southern state, a New England state, a Midwestern state, etc.

Furthermore, they were deliberately planned to be different sizes in order to provide varying group dynamics and to emphasize that each state will be responsible for deciding the composition of its delegation. It also reinforces the fact that while the delegations may differ in size, each state gets only one vote. Additionally, some of the delegations were of an even number of participants to create the possibility of having to resolve a tie. This is the profile from the 2014 simulation:

Arizona: 5 delegates	California: 8 delegates
Florida: 6 delegates	Nebraska: 3 delegates
New Hampshire: 4 delegates	Ohio: 5 delegates
Pennsylvania: 6 delegates	Tennessee: 5 delegates
Wyoming: 3 delegates	

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Total: 45 students

In addition to the historically and legally proven modus operandi at a Convention of States, the one state-one vote rule reinforces teamwork and cooperation among each state's delegation. After all, if they have only one vote, then they are responsible for deliberating in such a way that all the members of the delegation get a say in what happens.

Included as an attachment to this document is a folder entitled State Delegation Introductory Packets. These contain all the documents the commissioners need to engage in the simulation.

## **II: Issues Orientation**

Once the commissioners have been briefed on Article V and assigned to a state delegation, they are ready to divide into issue-oriented committees. No legislative body involves all of its members in drafting every piece of legislation. A key part of the legislative process involves assigning members to issue-specific committees where they discuss specific problems, propose solutions, reach consensus, and submit the work to the larger group.

The subject areas of the various committees will be selected by the participants. **The topics must be germane to the call of the convention.** The Convention of States Project advocates the following:

*“...to impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.”*

Consequently, functions legitimately delegated to the federal government, such as immigration, must be considered off-limits for the purposes of the simulation.

Each committee will be assigned one subject matter area, familiarize themselves with the problem(s), and propose one or more pertinent amendments. Proposed amendments should be submitted to the facilitator for later use in super committee, coalition building, and on the floor.

## **III. Super Committees**

The Super Committee process serves two purposes. First, the super committees give commissioners who were not members of the drafting committee the opportunity to provide input on amendments before they head to the floor. Second, the super committee experience provides a hands-on opportunity for participants to be trained in Robert's Rules of Order (RRO), the rules of order that will be used in the simulation. (Even though Mason's Manual has been selected by Assembly of State Legislatures for an anticipated Article V Convention of States, RRO has been chosen for the simulation because it is similar enough for our purposes and most Floridians will never use Mason's.)

The chairman will be familiar with RRO and general rules of debate. (There are several videos that can help in the understanding of these rules that are included in the

Resources section.) A secretary will be appointed to record changes to the amendments.

Depending on how many commissioners we have, there will be between two or three super committees. It is important that these committees be large enough to merit using rules of order, but not too large that they border on being as large as the floor of the Convention. Between 15 and 35 commissioners for each committee is the goal.

Each super committee will approve up to 4-6 amendments each. That way, there is competition among the commissioners for which amendments will make it to the floor, allowing only the best to be adopted.

#### **IV: Coalition Building**

While floor debate is important, it takes much more than good argument to raise support for amendments. Coalition Building both encourages commissioners to look for other avenues to raise support for their amendments, as well as provide a means of active participation for commissioners who would be uncomfortable engaging in a formal debate process.

Coalition Building is split into two portions: state delegation meetings, and securing support from other delegations. In the state delegation meetings, commissioners meet together state-by-state to discuss which amendments they plan to support on the floor. While debate on the floor may change the minds of some, the state delegation meeting gives the participants the opportunity to develop strategies to secure support for their favored amendments in advance.

After the state delegations have met, the commissioners are given the opportunity to confer with delegates from other states to raise support for their preferred amendments. The Coalition Building Forms will be provided on site to ensure commissioners keep track of support for each amendment.

#### **V: The Floor**

The culmination of the simulation is the Convention Floor. This is where the amendments that the commissioners have crafted will be debated and voted on in a formal setting. This will perhaps be the commissioners' favorite part of the entire program. Here, they have a chance to step into the commissioners' shoes in a way that has not been done thus far, and experience what it is like to be in the lawmakers' seat.

At this point, there should be 8-12 amendments under consideration. In order to simulate the competing interests and give-and-take inherent in the political process, the number of amendments that can come out of the floor must be limited to some subset of these. Because the language of the amendments may still be modified at this stage, commissioners may attempt to skirt the limit by combining two or more amendments into a single package. This is an excellent opportunity for a sidebar to discuss issues like earmarks & political hostage-taking.

Rules for debate and voting must be set in advance. Debate might follow a 10-minute rule: 10 minutes on each side, alternating in 2-minute intervals and including questions from the other delegates (i.e. 2 minutes pro, 2 minutes con, 2 minutes pro, etc.)

A suggested voting procedure involves two rounds. The first determines which amendments will advance from floor debate to a final up-or-down vote, and the second is an up-or-down vote. Amendments that garner a majority vote in Round 2 are the ones that would be sent to the states for ratification.

**Round 1:** Each state casts a vote for the number of amendments the convention will consider in Round 2. For example, if the committees have formulated 8 amendments, the task of Round 1 will be to whittle the number to be considered down to 4 by having each state vote for 4 of the 8. The top 4 vote-getting amendments move on to Round 2 for an up-or-down vote. Thus, if

Alabama votes for amendments 1, 3, 6, and 7

Florida votes for 2, 3, 6, and 8

Illinois votes for 1, 2, 3, and 5

Washington votes for 2, 3, 4, and 6 then:

- amendment 1 garnered 2 votes
- amendments 2 and 6 garnered 3 votes each
- amendments 3 garnered 4 votes
- amendments 4, 5, 7 and 8 garnered 1 vote each

Therefore, amendments 1, 2, 3, and 6 will move on to Round 2.

**Round 2:** Each amendment that emerged from Round 1 gets its own up-or-down vote. Those that receive a yea vote by a majority of the states represented at the convention will be sent to the states for ratification by three-fourths, or 38, states.

Once the vote has concluded, the convention will stand adjourned. It should be followed by recommend a time of reflection, discussion, and debrief.

## **Companion Materials and Resources**

We have a number of companion materials that will be provided for this simulation:

- COS badges and merchandise for participants
- Committee preference forms
- Petition forms
- State Delegation Introductory Packets.
- Videos regarding Robert's Rules of Order for legislators
- Information on lunches provided and on local vendors

## Appendix A: Learn About Article V

**Michael Farris' Constitutional Literacy** DVD series provides a thorough treatment of the Constitution by one of the leading Constitutional scholars in the U.S. today. Instruction includes a 1-hour feature covering the Article V Convention of States, as well as an overview of key cases that have resulted in the expansion of federal power. Ordering information, as well as a free preview video, is available by visiting [www.constitutionreclaimed.com](http://www.constitutionreclaimed.com).

**The Convention of States Handbook** is approximately 20 pages and contains an overview of the four major problem areas surrounding the federal government, along with an explanation of the Article V Convention of States remedy, and articles by leading Constitutional Scholars Michael Farris and Robert Natelson. The free pdf may be downloaded by visiting <http://conventionofstates.com/wp-content/uploads/2014/05/COS-Handbook-3.0-Online.pdf>.

**Proposing Constitutional Amendments by a Convention of the States: A Handbook for State Lawmakers**, is written by Robert G. Natelson, one of the premier Constitutional scholars in the US, and published by the American Legislative Exchange Council. The annotated handbook is about 40 pages in length and provides history, an overview of the process, recommendations, sample legislation, a glossary, and Q&A. It may be accessed at <http://www.alec.org/wp-content/uploads/article-five-handbook-1.pdf>.

The Convention of States Project's **A Compendium for Lawyers and Legislative Drafters**, by Robert G. Natelson, is a comprehensive treatment of Article V and provides a complete historical and legal analysis for how a Convention of States would run. It is available free at <http://conventionofstates.com/wp-content/uploads/Compendium%202.2.pdf>.

**The Liberty Amendments** by Mark Levin, available for purchase here: [http://www.amazon.com/Liberty-Amendments-Mark-R-Levin/dp/145160632X/ref=sr\\_1\\_1?ie=UTF8&qid=1428450663&sr=8-1&keywords=liberty+amendments+mark+levin](http://www.amazon.com/Liberty-Amendments-Mark-R-Levin/dp/145160632X/ref=sr_1_1?ie=UTF8&qid=1428450663&sr=8-1&keywords=liberty+amendments+mark+levin)

## **Appendix B: Issues Orientation**

The Convention of States Project advocates for an Article V Convention of States to impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

Many of the issues facing our nation today are the direct consequence of departures from the original intent of the founders by politicians and judges of both parties, such as: federal overreach, the erosion of checks and balances, and the unconstitutional delegation of lawmaking power from elected representatives to unelected officials.

Following is a list of questions to ensure that you have working knowledge of the issues with their Constitutional solutions.

### **Questions for discussion:**

- When does it make sense for a nation to incur debt? How soon should they pay it off?
- What expenses should be pay-as-you-go?
- How does a large national debt affect the economy?
- How does a large national debt affect future generations?
- What is the plan for retiring America's debt?
- When was the last time the US had a budget surplus? What was done with the money?
- What is an appropriate portion of GDP to be used to run the federal government?
- Based on the FASB recommendations, if the federal government were a business, would it be considered a "going concern?"
- Is the redistribution of assets a legitimate (Constitutional) function of the federal government?

### **Political Corruption Questions for discussion**

- How have politicians trampled citizens' civil rights?
- What role does money have in political corruption?

## Appendix C: Relevant Supreme Court Decisions

Below are the primary Supreme Court decisions covered in Dr. Farris's constitutional literacy textbook that are relevant to an Article V convention for the purpose of limiting the power of the Federal government.

- **Judicial Review (Article III)**
  - *Marbury v. Madison* (1803) – Established the authority of the Supreme Court to declare a law unconstitutional.
    - [http://www.oyez.org/cases/1792-1850/1803/1803\\_0](http://www.oyez.org/cases/1792-1850/1803/1803_0)
    - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=5&invol=137>
- **Judicial Supremacy (Article III)**
  - *Boerne v. Flores* (1997) – Established the Supreme Court as the supreme authority on all things relating to the Constitution, and thus above all the other branches of government.
    - [http://www.oyez.org/cases/1990-1999/1996/1996\\_95\\_2074](http://www.oyez.org/cases/1990-1999/1996/1996_95_2074)
    - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=95-2074>
- **Executive Power (Article II)**
  - *Youngstown Sheet & Tube Co. v. Sawyer* (1952) – Restricted the power of the president to seize private property by executive order.
    - [http://www.oyez.org/cases/1950-1959/1951/1951\\_744](http://www.oyez.org/cases/1950-1959/1951/1951_744)
    - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=343&invol=579>
  - *United States v. Curtiss-Wright Export Corp.* (1936) – Gave the President wide authority to issue executive regulations pertaining to foreign policy.
    - [http://www.oyez.org/cases/1901-1939/1936/1936\\_98](http://www.oyez.org/cases/1901-1939/1936/1936_98)
    - <https://www.law.cornell.edu/supremecourt/text/299/304>
- **Commerce Clause (Article I, Section 8, Clause 3)**
  - *Schechter Poultry Corp v. United States* (1935) – Established the “Effects Test” which gave Congress the power to regulate things that directly affect interstate commerce.
    - [http://www.oyez.org/cases/1901-1939/1934/1934\\_854](http://www.oyez.org/cases/1901-1939/1934/1934_854)
    - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=295&invol=495>
  - *Katzenbach v. McClung* (1964) – Broadened the power of the Commerce Clause by using it as the legal basis for the Civil Rights Act of 1964.
    - [http://www.oyez.org/cases/1960-1969/1964/1964\\_543](http://www.oyez.org/cases/1960-1969/1964/1964_543)
    - <https://www.law.cornell.edu/supremecourt/text/379/294>
  - *United States v. Lopez* (1995) – Slightly limits the power of the Commerce Clause from that of *Katzenbach*, but does not restore it to the original intent.
    - [http://www.oyez.org/cases/1990-1999/1994/1994\\_93\\_1260](http://www.oyez.org/cases/1990-1999/1994/1994_93_1260)
    - <https://www.law.cornell.edu/supct/html/93-1260.ZO.html>
- **The Power of Congress to Tax and Spend (Article I, Section 8)**
  - *United States v. Butler* (1936) – Established the authority of Congress to tax and spend “for the general welfare” as broadly defined.
    - [http://www.oyez.org/cases/1901-1939/1935/1935\\_401](http://www.oyez.org/cases/1901-1939/1935/1935_401)
    - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=297&invol=1>

- *South Dakota v. Dole* (1987) – Established the limits of Congress’s power to incentivize the states to adopt Federal regulations via Federal grants
  - [http://www.oyez.org/cases/1980-1989/1986/1986\\_86\\_260](http://www.oyez.org/cases/1980-1989/1986/1986_86_260)
  - <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=483&invol=203>
- **International Law as Above US Law**
  - *Roper v. Simmons* (2005) – Came dangerously close to using international law (specifically the UN Convention of the Rights of the Child) as a legitimate means for interpreting US law.
    - [http://www.oyez.org/cases/2000-2009/2004/2004\\_03\\_633](http://www.oyez.org/cases/2000-2009/2004/2004_03_633)
    - <https://www.law.cornell.edu/supct/html/03-633.ZO.html>

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