

Approved MAY 9, 1992

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Sen. Edward F. Reilly, Jr. at 11:00 a.m. on March 30, 1992 in Room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mary Torrence, Office of Revisor of Statutes
Mary Galligan, Legislative Research Department
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

See list attached

Others attending: See attached list

Sen. Reilly introduced Sen. Nancy Parrish, who explained the reason she authored SCR 1641. Sen. Parrish introduced Pat Jones who testified in favor of SCR 1641 (Attachment 1). Charlene Satzler, Director of Vital Statistics in the Department of Health and Environment, testified that a certificate can be amended only once, but that a new certificate can be issued; and in this case, it would have solved the problem. She stated that the problem can be solved under their rules and regulations, and that the bill will cause more confusion and would not be a solution. Ms. Satzler stated she would recommend to her department that the problem be solved in this manner.

The following people spoke in opposition to SCR 1642:

Sen. Lana Oleen, (Attachment 2);
Paul Fleener, (Attachment 3);

Written testimony submitted to the committee opposing SCR 1642;

National Tax-Limitation Committee, (Attachment 4);
Walter L. Myers, Co-chairman, Informed Voters Alliance,
(Attachment 5).

Committee members discussed the advisability of calling for a Constitutional Convention and if it could be designated as an "open" or "closed" convention, limiting the subject matter, and the number of states resinding their request.

Sen. Reilly introduced Jim Coder, Assistant Attorney General, State Fire Marshal Department, who testified in favor of SB 736, SB 740 and 741 (Attachment 6). Mr. Coder submitted written testimony in support of the three bills from Ross K. Boelling, Fire Prevention Division (Attachment 7) and from Rich Barr, Fire Marshal, Lawrence Fire Department (Attachment 8) in support of SB 740. Mr. Coder answered questions from the committee regarding fire code violations, how warrants are served, and showing

probable cause. He stated that the Fire Marshal strongly supports the three bills.

Sen. Reilly introduced Darrell F. Bencken, State Adjutant, VFW, who read Resolution No. 87, opposing SCR 1642 (Attachment 9).

Sen. Reilly announced the Joint Committee briefing scheduled for today has been cancelled.

The meeting adjourned at 12:05.

Attach. 1

Testimony on Senate Concurrent Resolution # 1641 before the Senate Federal and State Affairs Committee Monday, 30 March 1992.

Honorable Chairman, Senator Ed Reilly, and distinguished members of the Committee:

Upon the contingency given by Registrar of Deeds, Dr. Loren Phillips, I finally received my father's corrected Death Certificate, 24 May 1991, a little more than two (2) months after his death on 16 March 1991. Cynthia Keeling, a supervisor at the Kansas Bureau of Vital Statistics "went to bat" for me with Dr. Phillips.

I realize my case is unique in that my father died in Kansas but was eulogized and buried in Colorado; hence we worked with two funeral homes. I suspect having two funeral homes, in two states, involved in the documentation process probably contributed to the "foul up" in his death certificate. My concern in changing this Kansas statute is not so much for my own individual case, but for the many others out there who were not as fortunate as I, in obtaining a correctly amended death certificate of their deceased loved one. Due to my search in obtaining an accurate document, I learned that many Kansans had (or had had) a similar problem to mine. Penwell Gabel Funeral Home, here in Topeka, informed me of a Native American gentleman who could not receive his rightful tribal funds because his deceased relative's death certificate claimed his race as "White" instead of "Native American". The funeral home also stated there had been others. And, I strongly suspect that if one funeral home had made mistakes, several others throughout this fair state have also done so! After all, all of us are human, and we all make mistakes from time to time!

Much paper-work needed to be completed after my father's death; not the least of these being his income taxes. Insurance papers, needed to be sent in as well as papers for the Federal government, as my father was a retired cartographer for the government.

Let me reiterate my case as succinctly as possible. I first became aware of the problem through my sister, in Denver who had been dealing with it through the mails. When she received the first copy of Dad's death certificate, his name was listed as "Donald Ira Dunn" instead of his correct name, "Don". This had always been a very real issue with our father! Her address was also listed incorrectly. She contacted Dwayne Chambers, at Runyan-Stevenson Funeral Home in Denver, to make the necessary corrections. The funeral home changed those but then listed our mother, Dad's wife's name, as the name of his mother! This to me was an even more serious error! Apparently, the funeral home sent this copy to Kansas Vital Statistics, who forwarded this amended copy to my sister, in Denver. My sister, thoroughly disgusted with the matter, handed me the fraudulent death certificate, on my visit to Denver in early May 1991 and asked me to handle it, since I lived

Att. 1
/

in Topeka. Upon contacting Richard Rausch, at Penwell-Gabel Funeral Home here, I learned that we could not receive a second amendment to Dad's death certificate without a court order. Mr. Rausch had worked with Judge Frank Yeoman's, District Court #8's office attempting to obtain the necessary court order. Judge Yeoman resisted, feeling the Kansas Statute did not give him authority to do so. I contacted Judge Yeoman (having had a rapport with him from a trial in which I had been a witness for his prosecution, years before). The judge gave me the same argument and directed me to contact a supervisor at Vital Statistics. Having already dealt with Vital Statistics, I contacted Senator Nancy Parrish wondering how we could get the judge to yield in issuing the necessary court order. Senator Parrish suggested I may need to obtain an opinion from the Attorney General's office. I contacted said office, who agreed to issue an opinion provided the judge or senator made the request. I again spoke with the judge's and senator's offices regarding such. I was asked to get Penwell Gabel Funeral Home's attorney to help draft the opinion. They concluded that could be arranged. Dwayne Chambers, of Runyan Stevenson Funeral Home, in Denver, offered to pay whatever fees I incurred in my quest to obtain the correct death certificate on my father. After laying all this necessary ground-work, I contacted Cynthia Keeling, Supervisor, at the Bureau of Vital Statistics, on Thursday afternoon, 23 May 1991. She willingly listened to all the work I had done to obtain my father's death certificate. I think she was impressed at my dogged perseverance. Apparently she went "to bat" for me late that afternoon, because early the next morning, 24 May 1991, she called me to inform me that I could have my death certificate provided the funeral home presented the corrected copy to them, and with the contingency from Dr. Loren Phillips, Registrar of Deeds, that I work to get the Kansas Statute changed in this legislative session. I had divulged to her the previous afternoon, that I would work with Senator Parrish and others to change this statute, the following legislative session, if that would delete this problem for others in the future.

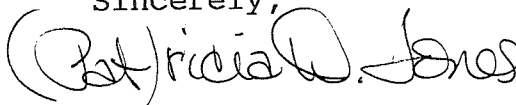
My concern in correcting this error was not so much for myself, or even for this current generation; but can you imagine how this error would adulterate genealogical records? I can envision future descendants searching the records and seeing this grandfather, Don I. Dunn, married to Gertrude Jagocki, but listed as having her as his mother and wondering, "What in the world?" "How can this be?" It had been suggested by several: funeral home representatives, a judge, a woman at Vital Statistics, and even a state senator, "Couldn't you just accept it as it is?" But, I am sorry senators, I could not. It was wrong. It was false! And, I could not stand by and let this legal document stand falsely. To me, doing so, would have negated all this man I called "Dad", stood for and represented all his life. He was the most ethical, honest man I ever knew! He it was who taught me to "stand up and be counted". He lived his very life in serving his fellowman and in bettering society around him. He had served successfully in elected office in his own community; and bettered education, and civic affairs for many years. I could not, nor could my sister, stand by and let his

final document testify falsely for generations to come!

Thank you, senators, for your willingness to listen with open hearts to a very real problem for some Kansans in our state. Thank you for expeditiously remedying this problem. I especially appreciate all that Senator Nancy Parrish has done to rectify this obstacle. I would like to request one additional correction in the proposal she has submitted. Under 28-17-20, (2), (A), (B) and (C) "drawing a single line through the incorrect information; inserting the correct information in the appropriate space; and placing the date of the amendment and the word 'amended' on the record." Please delete this also! You have no idea how absolutely unprofessional and tacky this looks! I was amazed when we received our first amended copy of Dad's death certificate! It looked like a high school paper with teacher's corrections. Surely, as a state we have more pride and dignity than that! And, it seems to me, if we want to be viewed by the rest of the country, and world, as intelligent, competent people, we need our official documents to proclaim such! You do not see birth or death certificates from other areas of this nation, looking like sloppy, (needing proper revisions) pieces of paper! If the cost to the state in issuing a "new", accurate copy of a legal document such as birth or death certificates is a factor, then give the citizens receiving said documents, the option to pay for it. Thank you very much!

One other question I have: Because this legislation is being considered at the "tail end" of this session, what are it's chances of passage? I suspect it may not become law this year. I know it has to pass out of this committee, then the floor of the Senate, as well as get through the related house committee and the House; after which both houses need to concur. Will it be held over, provided it does not pass this session? I am well aware that this issue is infinitesimal in comparison with the other issues with which you deal. But, it does affect many Kansans, and may even affect some of you someday! Thank you, again!

Sincerely,



Patricia D. Jones
2633 S.E. Tidewater Dr.
Topeka, Kansas 66605-2358
266-8076

* Job 2:3

Att. 1
3

SENATE CHAMBER

Senator LANA OLEEN
Riley & Geary Counties

Topeka Address
State Capitol Building
Topeka, Kansas 66612



Home Address
1631 Fairchild
Manhattan, Kansas 66502

TESTIMONY
in opposition to
SCR 1642

by
The Honorable Lana Oleen

Before the
Federal & State Affairs
Committee
Kansas State Senate

I'm here to testify in opposition to SCR 1642, a resolution to revoke Kansas' 1978 application (No. 1661) requesting Congress to either propose a Federal balanced budget amendment, or alternatively, convene a limited constitutional convention to propose it.

I'm opposing SCR 1642 for three reasons:

1) The federal budget is out of control. We need a balanced budget amendment (BBA) to control wasteful, deficit spending. The deficit is now estimated at \$400 billion, or 6.8 percent of the gross domestic product. As a result of years of deficit spending the national debt will top \$4 trillion by 1993. Interest payments on the national debt are now the second largest expenditure in the federal budget -- higher than Social Security. Before long it will be the largest. If we fail to gain control of deficit spending now our nation's economic future will be jeopardized. America cannot hope to compete in the global marketplace of the 21st century with the burden of debt from the late 20th century.

2) Congress and the President have refused to discipline themselves. The so-called budget agreements, including Gramm-Rudman-Hollings, have either been repealed, loopholed, or simply ignored. 49 states are required to balance their budgets, and the only way to ensure fiscal responsibility in Washington is to adopt a Constitutional amendment requiring a balanced federal budget.

3) Americans understand that Congressional spending habits must be disciplined. Polls consistently show that 70 to 80 percent of the American people support a BBA. Article V of the Constitution provides state legislatures with the authority, on behalf of the American people, to force action by a reluctant Congress. 29 states are on record for a federal balanced budget amendment; this is no time for Kansas to revoke its support for this much-needed requirement.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

RE: S.C.R. 1642 -- A proposal to revoke 1978 S.C.R. 1661

March 30, 1992
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

We welcome the opportunity to come before you in **strong opposition to S.C.R. 1642**. We worked diligently on behalf of S.C.R. 1661 in 1978. That was the resolution and that was the time the Kansas Legislature spoke out strongly. Together we urged the Congress of the United States to propose, or to call a convention **for the sole and exclusive purpose** of proposing, an amendment to the Constitution of the United States to require a balanced budget.

For the record ... my name is Paul E. Fleener. I am the Director of Public Affairs for Kansas Farm Bureau. We represent before Legislative Committees the views of thousands of farmers and ranchers in the 105 counties of Kansas. Those farmers and ranchers are represented at our Annual Meeting each year by voting delegates, each of whom is a farmer or rancher. Voting delegates at our Annual Meeting discuss the issues and adopt resolutions or policy positions to guide the organization.

Our farmers and ranchers have historically sought and encouraged efficiency and economy in government. They do this at every level of government. County Farm Bureaus have their own policies calling for local units of government to be frugal. Kansas Farm Bureau has policy positions/resolutions asking for efficient operation of government, living within our means as those of us in the private sector must do.

In these economic times, Mr. Chairman, it is difficult to conceive that anyone would suggest Kansas rescind a call on Congress to live within its means. Since 1978, when S.C.R. 1661 was written, the public debt in the United States has become a national shame. S.C.R. 1661 said "the public debt now exceeds hundreds of billions of dollars." Now, though, we have trillion dollar debt. We are the largest debtor nation in the world. There is no good reason for Kansas to rescind a call on Congress calling for a balanced budget and living within our means.

Attached to our testimony you will find the policy positions of Farm Bureau. One is exactly on the point of the Constitutional Convention, convened for the purpose of requiring a balanced budget and "limited to that subject." Yes, there have been scholars on both sides of the question: Can a Constitutional Convention be limited to one subject? My people believe with those who answer "YES" to that question. And they are willing to believe that people would act responsibly at a Constitutional Convention and would not be doing mischievous, dangerous, destructive things.

You will also find attached to our testimony the language of S.C.R. 1661 as approved in the Senate on March 7, 1978 and by the House of Representatives on April 26, 1978. It is still proper. It should remain on the books. It should not be revoked. **We oppose S.C.R. 1642.**

State and Local Governmental Budgeting, Spending and Taxation

AT-4

It is time in Kansas to write a basic tax policy of taxing people for services to people, and taxing property for services to property. We strongly support reducing the reliance on the property tax, and we likewise support increasing reliance on sales and income taxes for the support of state and local governmental units.

Expenditures by the State of Kansas and by local units of government in Kansas in any fiscal year should never exceed projected revenue receipts for that fiscal year.

Zero-based budgeting is essential to fiscal planning and should be required for all state agencies as well as all local units of government.

We support property tax replacement revenues for our elementary and secondary schools through a school district income tax and additional state aid.

We support adequate funding for agricultural programs in Kansas which have been underfunded in the past.

The State General Fund should have adequate balances or reserves.

Balanced budget amendment

73

We support a constitutional amendment to require the federal government to operate on a balanced budget each year. A constitutional convention convened for the purpose of requiring a balanced budget amendment should be limited to that subject.

the Kansas legislature, as here and before modified shall become effective as modified on May 1, 1978.

Be it further resolved: That the secretary of state be directed to transmit an enrolled copy of this resolution to the Kansas Commission on Civil Rights.

Adopted by the House April 26, 1978.

Adopted by the Senate April 25, 1978.

CHAPTER 475

Senate Concurrent Resolution No. 1661

A CONCURRENT RESOLUTION requesting and applying to the Congress of the United States to propose, or to call a convention for the purpose of proposing, an amendment to the Constitution of the United States which would require that, in the absence of a statutorily defined national emergency, total federal appropriations shall not exceed total estimated federal revenues in a fiscal year.

WHEREAS, Annually the United States moves more deeply in debt as its expenditures exceed its available revenues and the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, Annually the federal budget demonstrates the unwillingness or inability of the federal government to spend in conformity with available revenues; and

WHEREAS, Proper planning, fiscal prudence and plain good sense require that the federal budget be in balance absent national emergency; and

WHEREAS, A continuously unbalanced federal budget except in a national emergency causes continuous and damaging inflation and consequently a severe threat to the political and economic stability of the United States; and

WHEREAS, Under Article V of the Constitution of the United States, amendments to the Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary or, on the application of the legislatures of two-thirds of the states, the Congress shall call a constitutional convention for the purpose of proposing amendments: Now, therefore,

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the Congress of the United States is hereby requested to propose and submit to the states an amendment to the Constitution of the United States which would require that within five years after its ratification by the various states, in the

absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total of all estimated federal revenues for such fiscal year; and

Be it further resolved: That, alternatively, the Legislature of the State of Kansas hereby makes application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total of all estimated federal revenues for such fiscal year. If the Congress shall propose such an amendment to the Constitution, this application shall no longer be of any force or effect; and

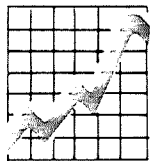
Be it further resolved: That the legislature of each of the other states in the Union is hereby urged to request and apply to the Congress to propose, or to call a convention for the sole and exclusive purpose of proposing, such an amendment to the Constitution; and

Be it further resolved: That the Secretary of State be directed to transmit copies of this resolution to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, each member of the Kansas delegation in the United States Congress and the secretary of state and presiding officers of each house of the legislature of each state.

Adopted by the Senate March 7, 1978.

Adopted by the House April 26, 1978.

the national tax-limitation committee



☒ #5 Sierragate Plaza
Suite 309
Roseville, CA 95678
(916) 786-9400
FAX (916) 786-8163

201 Massachusetts Ave. NE
Suite C-7
Washington, DC 20002
(202) 547-4196
FAX (202) 543-5924

ARTICLE V STATE RESOLUTIONS

QUESTIONS & ANSWERS

By Lewis K. Uhler, President

INDEX

Page 2	May a convention be limited?
Page 3	Does use of "amendments" suggest an open convention?
Page 3	Did Madison fear a convention?
Page 3	Was the first convention a "runaway"?
Page 5	Should we fear "runaway ratification"?
Page 6	Is a convention "automatic" when the 34th state resolution is passed?
Page 6	The substance of the state applications controls the convention process.
Page 7	The state applications dictate convention <u>scope</u> .
Page 8	The state applications dictate convention <u>timing</u> .
Page 8	Is a conspiratorial group hoping for a convention and planning to control it so they can convert the United States into a parliamentary-style government?
Page 8	What state resolutions has the conspiracy helped to obtain?
Page 9	What response can we expect from Congress when the 34th state resolution is obtained?
Page 9	Congress's fear of a "roughshod" convention, not a "runaway".

INTRODUCTION

It might seem odd that the quest for a federal amendment to limit taxes and balance the budget would be fought not only on Capitol Hill in Washington but in state capitols, as well. Why is that being done?

When the Founding Fathers met in Philadelphia to shape the U.S. Constitution, they determined first that one of the fundamental flaws of the Articles of Confederation was that it required unanimity to amend the Articles. Recognizing that the people would want to correct the document from time to time, the Founders knew that they must provide for an amendatory process that was at once difficult, but not impossible. They wanted to assure the opportunity for amendment when the consensus for a particular change was **SUBSTANTIAL**. They were equally determined that the amendment process not be so rigid that change would be a practical impossibility. That was the central defect of the Articles of Confederation. Hence, they decided that approval or ratification of amendments would require only a three-fourths, rather than unanimous, vote of the states.

In addition to easing the ratification rule, the Founders decided to provide two routes by which amendments could be proposed: (1) by a two-thirds vote of each body of Congress; and (2) by the states through a convention convened (by Congress) upon application of two-thirds of the states. Realizing that there might be some corrections of the Constitution which sitting members of the U.S. Congress would resist, the framers provided co-equal authority to the states to force change through the medium of a convention. Jefferson anticipated that the convention method would be used with some frequency and considered the convention a very important "safety valve" to protect the people from an abusive federal government.

Although we've not had a constitutional convention pursuant to Article V, the fact that the procedure exists tends to keep Congress more honest and responsive. For example, early in this century - after years of Senate resistance to the direct election of U.S. Senators - states began to adopt resolutions calling on Congress to pass such an amendment or to convene a constitutional convention for the purpose of framing such an amendment. When the number of state resolutions was just one shy of the required two-thirds, the Senate finally capitulated, approved an amendment and sent it to the states for ratification. The Senators recognized that unless they designed the amendment themselves, a convention might not "grandfather" them in for the balance of their terms.

ISSUES

Among the issues often raised are questions about Article V of the U.S. Constitution and its implications. To address these and other issues, I have selected a question-and-

answer format:

Q. Opponents contend that there is no way to limit a convention; that the only kind of a constitutional convention which may be convened under Article V is an open convention that may consider all parts of the Constitution.

A. This claim is without foundation in terms of authority, historical precedent, common sense and political reality. The Founding Fathers intended to provide two co-equal methods by which amendments to the U.S. Constitution might be proposed. One was through Congress, and the other through the states. We know that Congress can and has proposed single, discreet amendments without opening up the entire Constitution to consideration of revisions. (Remember, whenever it is in session, Congress is a constitutional convention, since at any time that two-thirds of its members want an amendment, they can propose it.)

To be on an equal footing with Congress, the states must have the same discreet amendment authority. Furthermore, Article V refers specifically to the application of the various states as being the triggering device leading to the convening of a convention: "... on the application of the legislatures of two-thirds of the several states, shall call a convention ...". The resolutions themselves are the very "foundation" upon which a convention would be constructed. If those resolutions say, as they do in this instance, that the states want a convention for the "sole, limited and exclusive purpose of proposing a balanced budget amendment," the states are triggering a limited, not a general, convention. This is not to say that the states could not call for a general convention, but they would have to do so pursuant to a convention call which explicitly states that objective.

It is clear that the Founders intended that the power to correct perceived errors be equal as between the federal government and the states. In the Federalist Paper #43, Madison states: "It [the power to amend the Constitution], moreover, equally enables the general and the state governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other."

Note that the key is "equally." The state route to constitutional change is a backstop, allowing the people to obtain amendments when Congress will not act. But historically, the state power that has been held in reserve fully matches the congressional power normally used.

Congress could rewrite the Constitution wholesale and submit it for ratification. So could a general convention called by the states. Congress could submit one or more discreet amendments. So can a limited convention called by the states.

There is a significant difference between a general convention and a limited one. Those who fear a balanced budget amendment deliberately confuse the two types of conventions. But anyone who approaches the subject with an open mind can see the difference and recognize its importance, as described below.

Q. But what about the fact that Article V speaks of a convention to propose amendments (in the plural). Doesn't that support the idea that only an open convention

is within the power of the states to call?

A. Note that the first portion of Article V speaks of amendments (in the plural), also. "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution ..." Certainly no one would suggest that Congress may consider only multiple amendments at one time and not a single amendment. The use of the plural form was meant to accommodate multiple amendments, not command them. The use of the plural form with reference to a constitutional convention serves only to conform and make consistent the draftsmanship and to allow a convention to consider more than one amendment should that be the expressed desire of the states in their applications.

Alexander Hamilton's Federalist #85 sought to contrast the approval of the entire Constitution with the subsequent process of amending it after its adoption. He said, "But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly."

Q. Madison, who is believed by many to be the principal architect of the Constitution, is quoted as saying he would be fearful of any other constitutional convention. Did Madison really say that and feel that way?

A. Resorting to Madison's comments in this way is, at best, misleading, at worst, deceitful. He is quoted as saying the following: "It seems scarcely to be presumed that the deliberations of a new constitutional convention could be conducted in harmony or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first convention, which assembled under every propitious circumstance, I should tremble for the results of a second."

The easiest way to misquote anyone is to use a correct quotation but deliberately ignore the context in which it was made. Madison made this statement, but he did so in direct reply to the anti-federalists who asked that the results of the Philadelphia convention be abandoned and a new convention be called. When a legislator moves to "recommit" a bill (to the committee from which it came), he often claims it is merely to "clean up" the bill or make improvements in it, but most often it is to kill the bill. So it was with the recommendation for a new convention, or "recommittal" of the Constitution. The proponents of that procedure knew it would kill the Constitution.

By quoting Madison out of context, the opponents of the balanced budget amendment make it appear that never again did he want the people to use their power to hold a convention. He did not say that; he did not mean that. Madison approved of the convention process as a means of amending the Constitution. He was speaking only about the proposal to abandon the original Constitution in favor of a new convention.

Q. How can you stop a convention from having a broad scope, since the first convention was itself a "runaway"? It was only supposed to revise the Articles of Confederation.

A. The first convention was not a "runaway" convention. Following the Annapolis

convention of 1786, and pursuant to its recommendations, Congress convened another convention, resolving that such a convention appeared "to be the most probable means of establishing in these states a firm national government," and that a convention should be held "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the states, render the federal constitution adequate to the exigencies of government and the preservation of the Union."

The mandate to the convention was essentially wide open, as Madison himself argues forcefully and cogently in the Federalist #40. Furthermore, the convention reported its work back to Congress, which, in turn, submitted it to the states for ratification. Very clearly, the constitutional convention was convened purposely and explicitly as an "open convention," and it responded to that commission. Nevertheless, it did not presume to act independently of the body which commissioned it: the Congress. Rather, it urged Congress to make its handiwork the law of the land only following submission to and approval by three-fourths of the states.

Congress was at liberty to accept or reject the convention's recommendations in terms of both the substance of the changes and the procedure for their approval. Hence, it is safe to say that the Founding Fathers themselves did not feel that they were somehow "above" or unrestrained by their convening authority. Those who doubt this have not read George Washington's transmittal letter, nor the debate in the convention that led to that letter. There is simply no historical precedent whatever to suggest that a convention would seek to ignore its commission, run roughshod over its convening authority and arrogate unto itself the scope and authority beyond that possessed even by its creator.

There is a sound, clear historical reason for not calling the Philadelphia convention a "runaway." The records of that convention reveal that the delegates were well aware that the Articles of Confederation could not be amended by anything but unanimous consent of the states (that provision is found in Article XIII of the Confederation).

The delegates, therefore, decided after July 1787 that they would not even attempt to amend the Articles of Confederation. Instead, they wrote a new document in full recognition that if it were accepted, it would only apply "among the States so ratifying the same." Any states not ratifying would still be under the Articles of Confederation. And if too few states ratified, all of them would remain subject to the Articles of Confederation.

Remember, when the Constitution was written, it was possible for states to leave the Union of their own accord, whenever they chose to do so. It took the Civil War, almost a hundred years later, to settle the point that once a state joined the United States, it could not later withdraw for any reason. The most authoritative study on the subject - done by the American Bar Association - concluded that a convention may be limited. Also, there have been over 200 constitutional conventions at the state level. Some state constitutions require conventions on a periodic basis. Delegates take their responsibilities seriously.

Opponents of the convention process have adopted a "Frankenstein-Monster"

theory of constitutional conventions. Their fears are simply not supported by history, common sense or political reality. The specter of a runaway convention might make good science fiction copy and might feed some conspiratorial hankering, but where would a convention go with its work product if it "ran away?" Would it seek to ignore Congress and send its handiwork directly to the states for ratification? What state legislature is going to entertain seriously the ratification of some wild and woolly set of amendments that arrive in its chambers outside of the constitutionally-prescribed procedures? I believe that to state the proposition is to demonstrate its absurdity.

Those who are preoccupied with a "runaway convention" conveniently ignore the fact that the work product of a convention must be ratified by the legislatures of 38 states before it becomes law. So the "runaway convention" argument is very misleading. The dire results predicted by the purveyors of doom could not come from a "runaway convention" but from "runaway ratification" - a total failure of the entire amendatory system or process. I'm sure Jimmy the Greek could not begin to calculate how remote such odds might be.

Constitutional authority John C. Armor has summarized the process thus:

"The sequence of events necessary for a 'runaway' Convention to occur, and for its rogue proposals to become law as part of the Constitution, require a long series of obvious failures by various parts of the governments of the United States. Critics on this point do not discuss these steps, because listing them makes the weakness of their argument apparent. Here are the necessary failures, in the necessary order, for a 'runaway' Convention to occur, and to have its proposals adopted as part of the Constitution:

1. Congress fails to act on the proposed amendment.
2. Congress calls for a Convention, but fails to limit its subject matter.
3. Any state, or possibly any individual, who feels that the Convention can and should be bound to limit, brings a legal challenge and the Supreme Court either fails to act, or rules that the Convention is unlimited.
4. The Convention actually passes proposed amendments that are beyond its subject matter.
5. Congress submits the excessive amendments for ratification.
6. Another Supreme Court challenge is brought and lost by a dissatisfied state or individual.
7. Three-fourths of the states, by either their legislatures or special conventions, as Congress has required, ratify the excessive amendments.
8. Another Supreme Court challenge is brought and lost by a dissatisfied state or individual.

"In short, for a new Convention to constitute a 'runaway,' and for those results to become effective parts of the Constitution, the following American political institutions have to fail their duties not once but repeatedly: both Houses of Congress, the Supreme Court, and the legislatures of three-fourths of the United States. The only group of political institutions which would not have to fail would be the Presidency and the governors of the various states, since these people are not part of the amendment or ratification processes.

"The question of whether it is theoretically possible for all of these failures to occur must be answered yes. But the question of whether it is likely, or even remotely possible, has a different answer. It is a firm no." (The Right of Peaceful Change: Article V of the Constitution, pp. 27, 28)

Q. There are those who claim that once 34 states petition Congress for a convention, Congress is obliged to convene it. Convening it is mandatory. There is no discretion, even though many of the resolutions expressly give Congress itself time to act on the amendment, and only if Congress fails to act do those resolutions call for a convention. How do you respond to this?

A. If a convention were automatically triggered by 34 resolutions, Congress long since would have had to convene a convention. Why? Because at the present moment there are pending before Congress applications from 39 separate states calling for a constitutional convention. It just happens that only 32 of those applications are on the same subject - the balanced budget amendment. I believe the current situation demonstrates three important points:

* First, the convention resolution process is not just a numbers game. You don't just count to 34. You must look at the resolutions and see what they say. To trigger the process, the applications must focus on the same issue or issue area. No one I know, even those who would love to see a wide open convention, have demanded that Congress convene a convention. This can mean only one thing: the subject matter of the resolutions does count.

What the states want, and how they frame their resolutions, is what triggers the process. The only thing Congress is "obliged" to do is to receive, peruse and be guided by the directives of the state resolutions. It is only the coincidence of 34 resolutions which refer to the same subject matter, the same timing and procedures that initiates the convention process.

* Second, those who profess fear that a convention might "run away" are caught in a very uncomfortable contradiction. They certainly must acknowledge that Congress is under no duty to convene a convention until 34 resolutions on the same subject have been received. But once that threshold has been achieved, they contend, Congress can no longer be guided by those applications and is obligated to convene a convention that is entirely absent any guidelines as to subject matter or, for that matter, any rules as to its conduct, etc. While the Constitution is silent as to the details of a convention, it is very clear as to who has the responsibility to convene it and, therefore, to shape it - Congress. Congress, which has absolutely no institutional interest in convening a convention, let alone

an open convention, will look to the resolutions and seek to make the scope of such a convention as narrow as possible.

The question of state calls for a constitutional convention goes to the heart of the difference between a general convention and a limited one. Clearly, the states have the power, if they so choose, to call for a general convention. It would be unlimited in subject matter and could do all that the Philadelphia convention did. Those who oppose the balanced budget amendment concede that the states can call for a general convention.

A limited convention, on the other hand, would be restricted to a certain subject. If, for instance, 34 states should decide that it was a good idea to reinstitute prohibition in the United States, they could call for a convention limited to the reconsideration of the 21st Amendment. But, what if 20 states called for that, and 20 others called for a convention to reconsider the 19th Amendment, because they didn't like the idea that women are able to vote? Can all those state calls be added together so as to require a convention?

The answer is absolutely not, and there are two ways to demonstrate it:

(1) In calling for a constitutional convention, the states are exercising a power explicitly granted to them by the Constitution. In so doing, the states are as much bound to obey the Constitution as are the President, the Congress, the Supreme Court, the Armed Forces, etc. They can only do what the Constitution allows them to do.

The power to call a convention is like the power to withdraw funds from a bank account. The depositor may withdraw all his money, or only part of it. A total withdrawal is the use of the total power, a general convention. But, if the states choose to make a "partial withdrawal", nothing occurs unless 34 of them agree on the amount of that withdrawal, i.e., the subject matter for a convention.

(2) In its proposed Constitutional Convention Procedures Bill, the Senate has explicitly recognized the power of the states to call for a limited convention. This Bill specifies that Congress first determine (as provided in Article V) that 34 states have requested a convention on a particular subject. Congress would call the convention, limiting the delegates to the subject found in at least 34 state calls.

"The idea that the Congress, which does not want any amendments other than its own, would deliberately choose a process that was totally open, is theoretically possible, but politically frivolous." (The Right of Peaceful Change: Article V of the Constitution, p. 24)

* Lastly, in reviewing the balanced budget amendment resolutions, Congress will find in many of them an explicit grant of time (either specified or reasonable) following receipt by Congress of the 34 resolutions during which Congress may itself act on an amendment and obviate the need for a convention. If there were only one such "time capsule" resolution, it would have the effect of delaying the entire process, because there

would not be 34 resolutions before Congress calling on it - now - to convene a convention. Once again, since the state resolutions are the engine that drives the convention process, the timing specified in those resolutions controls when Congress must act. And you can be sure Congress will not act before it must.

Q. Some people believe that in seeking a constitutional convention we are playing directly into the hands of a sinister, conspiratorial group, waiting in the wings for a constitutional convention. They plan to take charge of such a convention and use it to make massive, fundamental changes in the structure of the U.S. Government, converting our Nation into a European parliamentary-style government.

A. These claims certainly bring the conspiracy theory behind a constitutional convention effort to new heights. If such a sinister plot existed, and if the people involved possessed the behind-the-scenes political clout suggested, they would long since have persuaded enough liberal state legislatures to approve the balanced federal budget state resolutions and would have manipulated the leadership of Congress to call an open convention with them in control.

From having been involved in the internal political combat in the legislatures of several states regarding the balanced federal budget resolution, I can assure you that the liberal forces are pulling all the stops in their efforts to prevent us from being successful. Now, either these liberal forces are unaware of the grand design for a formal reshaping of the government of the United States through a constitutional convention, or they don't believe it can happen. If this conspiracy were so well organized, deep rooted and politically powerful, certainly its leaders could have arranged a last-minute switch of votes in our favor, allowing us to win in several more states so they could get on with their program to subvert a constitutional convention. From the results to date, it seems like a pretty ineffective conspiracy.

One of the many ways in which Washington, D.C., is not typical of the entire Nation nor of its citizens in general is the existence in the Capitol of an incredible variety of very small, very weak and very strange special interest groups. They all have letterheads; they all have offices; they all have conferences from time to time.

There are even groups in Washington who think that the United States should change its government to a constitutional monarchy. If one worries about strange proposals floating around Washington, one can waste a lifetime chasing ghosts. The key question is, which trees in this forest of odd ideas have anything remotely approaching the kind of support that history has demonstrated is necessary to amend the Constitution?

The latest experience with amendments that failed are the Equal Rights Amendment and the D.C. Representation Amendment. The latter failed so miserably that the press has not gotten around to reporting it in full. The former failed narrowly, but its history is very instructive.

Depending on the polls you consult, the E.R.A. had the support of upwards of 100 million Americans. Yet, it missed by several states from obtaining ratification.

Something more than the support of 100 million Americans will be necessary to change the United States into a "parliamentary democracy." Those who advance the conspiracy theory can easily point to a few misguided eggheads and would-be scholars who favor the idea. They do have offices, and they have published a few papers.

But, this is the critical question: Where are the 100+ million supporters of this idea? Where are even a million? Even 100,000? The fact is, there aren't enough Americans who are dumb enough to favor such an idea to make even a tiny blip in the most biased public opinion poll.

Conspiracies without followers are like generals without troops. Even if they exist, they are irrelevant. At most, they are curiosities like the more exotic animals found in a zoo.

Q. If we succeed in getting resolutions from 34 states or maybe more, what would you expect Congress to do?

A. Initially, I suspect that some congressional leaders might try to "stonewall" the process by claiming that some of the resolutions are out of date, insufficiently precise, etc., trying to make a case that there are not the necessary 34 valid applications. This would be a technical, legal response which might buy a little time. But in my judgment, political considerations and realities would soon dominate the action, giving the upper hand to those responsible members of Congress who want fiscal discipline and to other members who, though less concerned about true fiscal discipline, are very sensitive to the politics of the issue and would not want to be perceived by their constituencies as thumbing their noses at the will of the American people. Together they would bring pressure that would force Congress to take action.

Q. What action do you think Congress would take?

A. There isn't the slightest question that Congress, when actually confronted with the need to take action - either pass an amendment or convene a constitutional convention for that purpose - would opt for the former. After all, when push comes to shove, Congress would rather have a hand in shaping an amendment that will control its fiscal practices than turn that responsibility over to "mere" citizens. Congress' reaction to state resolutions regarding the direct election of U.S. Senators is very instructive here.

Those who are familiar with the thinking processes of legislators concur that Congress would dispatch the issue itself. It isn't a "runaway" convention that strikes terror in the hearts of legislators. It is the specter of a "roughshod" convention - one that might propose severe penalties for failing to balance the budget, such as deducting any deficit from the operating budget of Congress, reducing congressional pay, slapping members in jail - or, worst of all, declaring all Senators and Representatives who presided over a deficit ineligible to run for re-election. I think the people of this country - and those elected to a convention - might be just angry enough to do something like this. The mere possibility that such might be the outcome assures that Congress itself would act.

The language of the Constitution itself contains the proof of this point. The third section of the 17th Amendment contains a grandfather clause to protect the incumbent, unelected Senators as long as possible against the ravages of facing the electorate. A convention to write the amendment would not have been so kind to the Senators as they were to themselves.

The very threat that Congress' failure to agree upon an amendment might necessitate a convention is the best insurance that Congress will act. The real challenge to those of us fighting for the amendment will be to make sure that the design of the amendment is sound.

To repeat, I can't for the life of me see the U.S. Congress actually convening a convention on this issue, because we're talking about their life blood - money. They will dispatch the issue themselves.

CONCLUSION

Anyone who opposes the state resolution process must be prepared to accept blame for failure to achieve a balanced budget amendment, because the state process is essential to success. It is not enough to try to justify this opposition by claiming that the convention process constitutes a risk. One must reject reason, precedent, common sense, the plain meaning of words, the intentions of the Founding Fathers, political reality, and enter a conspiratorial fantasyland to arrive at a scenario of risk. Concurrently, one must ignore a real risk - the risk that continued deficits, overspending and outlandish federal fiscal practices will permanently damage our Nation. It is time to join together to put an end to the real risk, rather than letting a phantom risk divide and conquer us.

Above all, we must remember that it was the Founding Fathers themselves who in their wisdom included in the Constitution the convention method of proposing amendments. They knew exactly what they were doing. They gave us the power to shape our own destiny. Why on earth should we reject it?

Attach. 5

INFORMED VOTERS ALLIANCE
RR 2, BOX 157C, BALDWIN, KS 66006
(913) 594-3367

Senator Reilly; Members of the Senate State and Federal Affairs Committee

I am Walter Myers of Baldwin and National Co-chairman of the Informed Voters Alliance (IVA). Because our group functions as a catalyst to pull others together around issues of mutual interest, our National Steering Committee (NSC) has chosen to limit IVA's involvement to issues that must be solved for there is to be any hope of reinstating America's lawful government as set forth within the spirit and intent of the Declaration of Independence, Constitution, Bill of Rights and State Constitutions.


To date, our NSC has identified eight issues as pivotal. These are summarized in the attached draft brochure. Retaining the Constitution for the U.S. is one of them. Though the spirit and intent of the Constitution has been maimed by Federal usurpation of power, the U.S. Senate amending the Constitution via ratification of charters and other Constitutions as though they were Treaties, converting Americans into subjects governed by the dictatorial legislative democracy created by Art. 1, Sec. 8, Clause 17 of the Constitution, and the U.S. being perpetually under martial law since 1933, the Constitution remains the Supreme Law of the land and is our lifeline to Liberty and political sanity. It must be retained.

The *New World Order* being pursued by President Bush has been defined as "A world that has a supernational authority to regulate world commerce and industry; an international organization that would control the production and consumption of oil; an international currency that would replace the dollar; a World Development Fund that would make funds available to free and communist nations alike; and an international police force to enforce the edicts of the New World Order." It is self evident that this *New World Order* can only be built on the ashes of our Constitution. Therefore, our Constitution must either be formally terminated or suspended via a tyrannical decree.

To provide a vehicle with which to formally terminate the Constitution, those promoting the New World Order fraudulently convinced many State Legislatures to request that Congress call a Constitutional Convention for the expressed purpose of obtaining a balanced budget amendment. I say "fraudulently" as a long term balanced Federal budget is a mathematical impossibility under the debt-dominant system of money creation employed by the privately owned bank deceitfully called the Federal Reserve System. Both Governor Finney and Senator Burke have agreed the only possible mathematical outcome of the FED concept of money creation is that it must eventually hold title to all real wealth of its choice and a mortgage on the remainder. Anyone trying to defend the need for a Constitutional Convention for the purpose of obtaining a balanced budget amendment without advocating changing the way our money is created is either poorly informed or a liar. Incl. 2 is a paper on this subject. I will look forward to your reply to its questionnaire.

Florida, Alabama and Nevada have rescinded their call for a Con Con. They recognized the fraud of a balanced budget and that those promoting the Convention have openly admitted the target of it is not the budget but the Constitution. The Informed Voters Alliance respectfully requests you join them and support Gov. Finney, Sen. Kassebaum and others opposed to a Con Con and who recognize the Constitution as the basis for correcting other serious problems.

Sincerely,


WALTER L. MYERS
Co-chairman

Att. 5
1

The reported definition of the NEW WORLD ORDER makes it clear it is a "planned society" to be built on the ashes of our Constitution. It is: "A world that has a supernational authority to regulate world commerce and industry; an international organization that would control the production and consumption of oil; an international currency that would replace the dollar; a World Development Fund that would make funds available to free and communist nations alike; and an international police force to enforce the edicts of the New World Order."

FORGET POLITICS AS USUAL

It is self evident that both Republican and Democratic administrations have faithfully pursued this unconstitutional and anti-Christian ideology. It's time we accept this as fact and heed President Lincoln's advice saying: "We the people are the rightful masters of both the Congress and the Courts, not to overthrow the Constitution, but to overthrow the men who pervert the Constitution."

Together, we can build an unbeatable political force and use the next election to "overthrow" those "perverting" our Constitution. We can begin to reinstate lawful government within the spirit and intent of our Declaration of Independence, Constitution, & Bill of Rights. But will we? Or will we continue in our mistakes of the past? Time will tell!

UNIVERSITY OF SPIRIT & ACTION

The urgent need for unified action prompted IVA to concentrate on developing a viable concept for creating the unbeatable political force needed to insure these actions become reality. We pray you will help by joining the IVA team.

In announcing his intention to unilaterally disarm America on Sept. 27, 1991, President Bush said: "Destiny is not a matter of chance; it is a matter of choice." On this we agree! But let's make it our choice - not his!

Under IVA's unique coordinating concept, meetings were held with leaders of eight national political parties or factions thereof and several state parties considered pro-American. All agree that our major problems would not and could not exist except for the intentional and systematic destruction of our lawful government. They unanimously agreed on the need to urgently address the following issues, any one of which may prevent its restoration.

1. THE CONSTITUTION MUST BE RETAINED. It is the basis for correcting all other problems! We must stop its suspension or replacement via Executive Orders, a Constitutional Convention for any reason, or via legislative, administrative or military action.



2. TREATY POWER - IVA rejects the idea that America's founders intended for the Constitution's treaty provisions to be used to destroy with a pen the nation they fought a war and pledged their lives, fortunes and sacred honor to create. Future attempts to use this treaty power to amend the Constitution or alter or destroy its intended principles or concepts must be stopped!

3. TREATY REVIEW - Existing treaties and other documents ratified as such must be reviewed and modified to bring them into compliance with the spirit and intent of lawful government.

4. ECONOMIC REFORM - Liberty without opportunity for economic independence is impossible. The mathematics of today's monetary and fiscal policies can only economically enslave all Americans except the owners of the PRIVATELY owned bank deceitfully named the FEDERAL RESERVE SYSTEM and those they choose to prosper. *Our American system of Economic Independence, our Constitution and the monetary and fiscal policies thereof must be reinstated.*

5. NATIONAL DEFENSE - Congress cannot meet its responsibilities under Art. I, Sec. 8, Clause 10, 11, 12, 13, 15 and 16 or that of Art. IV, Sec. 4 of the Constitution without access to a military force. Therefore, Public Law 87-297 requiring the "General and Complete" disarmament of America must be repealed; the spirit and intent

of America's Second Amendment right to keep and bear arms must be complied with; and a military capable of defending the integrity and sovereignty of this nation must be reclaimed and maintained.

6. AIDS - Left unchecked, AIDS will demand further socialization and deny Americans their Liberty. Historically, the number of people testing HIV positive has doubled each year. At this rate and with an estimated ten million carriers today, a majority of U.S. citizens may be carrying the AIDS virus within eight years. Parallel programs must be initiated to examine every potentially viable technology for curing this dreadful disease and slowing its spread.

7. BALLOT BOX INTEGRITY - We must insure election results accurately reflect the will of the people.

8. JURY POWER - The full responsibility and authority of common law juries of a defendant's peers must be restored including their right to judge the law, the facts and to determine penalties and damages.

ALL OR NONE AT ALL

IVA doesn't believe our ills can be corrected on a piecemeal basis nor by petitioning or appealing to those who have created and perpetuated our problems.

...only believe the only peaceful
 ...to avoid the NEW WORLD ORDER
 is for voters to wrest control of
 government from those holding it.
 Doing so demands:

1. a national repentance. We must
 acknowledge and regret past mistakes
 and begin correcting them.

2. the creation of an unbeatable pol-
 itical force capable of replacing a sub-
 stantial majority of our incumbent,
 corrupt and unqualified politicians.

3. a means of identifying and electing
 political candidates having the hones-
 ty, integrity, ability and courage to
 stand for righteousness.

IVA believes many voters are beginning
 to repent. This number will increase as
 the economic, environmental, and soc-
 ial conditions in America continue to
 deteriorate. We believe they can meet
 the challenge if organized - not as one
entity or single organization, but in uni-
ty of spirit, purpose, thought and action
on vital efforts of mutual benefit

To help transform voters concern into
 meaningful and efficient action, IVA
 developed a unique coordinating and
 operating concept, organizational str-
 ucture and program. A four page
 description of it is included in every
 membership package or is available
 separately for \$4.00. The Concept
 permits participants to coordinate their

effort on an issue by issue basis and
 yet retain their own identity and free-
 dom to pursue other issues within their
 area of special interest. Its acceptabil-
 ity has been well demonstrated.

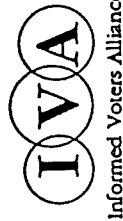


"...and to the Republic for which it stands...."

A CONCEPT IS A CONCEPT

It can never be anything more without
 good people at every level of govern-
 ment who can and will help provide the
 leadership and effort to implement it;
 people who will faithfully participate in
 telephone trees, sign and carry peti-
 tions for worthy causes and candidates,
 register voters, speak on the issues,
 run for public office, write letters to
 the editor, put out yard signs, initiate,
 orchestrate or otherwise participate in
 special events, function as a leader
 and more.

If you believe in the "miracle of Phil-
 adelphia" and want to help fill one or
 more of the needs, please join us.
 Complete and mail the attached app-
 lication. *Together, we can, we must*
and we will SAY NO to the NWO and
rebuild the American Dream!



Informed Voters Alliance

YES! I want to help the INFORMED VOTERS ALLIANCE

build an unbeatable political force and reinstate our lawful
 government for all Americans within the spirit and intent of our
 Declaration of Independence, Constitution, and Bill of Rights.

Here is my 1992 IVA membership dues (\$15.00) and/or a donation of
 \$10.00 \$20.00 \$50.00 \$500.00 Other \$

Name _____

Address _____

Phone _____

City _____

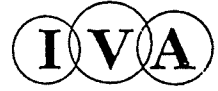
State _____

Zip _____

IVA is a not for profit organization: Contributions to
 IVA are not deductible. Should you desire
 anonymity in your donation it will be respected.

The Informed Voters Alliance, RR 2, Box 157C, Baldwin, KS 66006 (913) 594-3367

Title: _____



Informed Voters Alliance

5-2

a non partisan, not for profit, pro Am-
 erican organization who believes in
 God and HIS foundation for our Nation
 invites you to:

understand why

**RESTORING LAWFUL GOVERNMENT
 BORDER TO BORDER MAKES MORE
 SENSE THAN A**

NEW WORLD ORDER

In "Captains and the Kings," Taylor
 Caldwell wrote: "There is indeed a plot
 against the people and probably always
 will be, for Government has always
 been hostile toward the governed....
 Whether they know it or not, the
 people of all nations are helpless. This
 is probably the last hour for mankind
 as a rational species before it becomes
 the slave of a 'planned society'...I hope
 many of my readers will avail them-
 selves of the facts. That is all the hope
 I have."

In announcing "DESERT STORM",
 President Bush said: "We have an
 opportunity for a **NEW WORLD ORDER**
 where **WORLD LAW, BASIC HUMAN
 RIGHTS, and FUNDAMENTAL FREEDOMS**
 will prevail."

Dear

The attached discusses the most important issue you will ever address; either by a responsible act of commission in support of the Constitution or by ignoring the issue (an act of omission) and helping to commit your constituency, our fellow Kansans and our posterity to a NEW WORLD ORDER whose reported definition is at paragraph 3, page 2 of the attached.

Do States have the authority and responsibility to act on this issue? For an answer to this extremely important question, we go to Mr. T. David Horton, one of our greatest contemporary Constitutional attorneys. "In the Treaty that concluded the American revolution, thirteen Nations were recognized as sovereign states. Many had their own diplomatic delegation and issued their own money; an exercise of the supreme prerogative of government. In the exact language from the Treaty of Peace, His Britannic Majesty acknowledged these states 'to be free sovereign and independent states.' These sovereign States didn't need to form the Compact known as the Constitution of the United States. They were at Liberty to go their separate ways if they so elected. But they didn't! Rather, they chose to bind themselves together by each state transferring very limited and specific powers to the Federal Government..

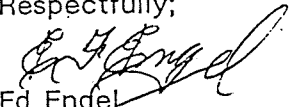
It is not just Constitutional heresy to disregard the intent of those who framed and adopted the Constitution. It is unlawful! Further than this, Constitutional apostasy places upon the States the responsibility to enforce the Constitution. Whether they know it or not, the States are, in law, the Principals, and it is through the State Legislature that the State speaks in its highest sovereign capacity. Therefore, the State Legislatures have a responsibility which they are not discharging, and if Federal Agents come along to enforce some ruling that the Legislators don't like, it is not the act of the Federal Agent which is changing the Constitution, it is the inaction of the State. It is the State's act or failure to respond to this challenge that is causing the degradation of our Constitutional system" Additionally, our Declaration of Independence also says "each State is, and as a Right ought to be, free and independent."

This "money" issue was created through an unchallenged usurpation of delegated power by the Federal Government. Both the Constitution and U.S. Supreme Court have made it clear that the "coining" of money is an act of sovereignty exclusively vested in the Congress. No branch of the Federal government had, or has, the lawful authority to delegate any power transferred to a Federal agency by the States. Each State is a principal to the Constitution. Under the Law of Agency, it is they who have the ultimate responsibility and authority to insure its correct interpretation and implementation.

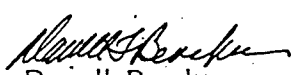
It is self evident that the NEW WORLD ORDER can only be built on the ashes of our lawful government. It is but a world of, by, and for the world's financial/industrial cartel whose "edicts" will be forced upon all mankind via an "international police force." It will be a world devoid of every principle and precept upon which this nation was founded and which millions of men and women sacrificed to establish and maintain.

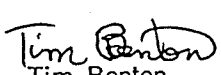
The undersigned, on behalf of the membership of our respective organizations, respectfully request you complete and return the enclosed questionnaire so we may know your position on this extremely important issue.


Respectfully;


Ed Engel
Pres., Citizens for Honesty in Govt.

2 Attachments
1. IVA Ltr, 1-6-92 to Gov. Finney
2. Questionnaire


Darrell Bencken
State Adj., VFW


Tim Benton
Chairman, Informed Voters All.


Fred Kilian
Spokesperson, Am. Ag. Mvmt. *Att 5*
2

INFORMED VOTERS ALLIANCE
RR 2, BOX 157C, BALDWIN, KS 66006
(913) 594-3367

Governor Joan Finney
2nd Floor, State Capitol
Topeka, KS 66612

Dear Governor Finney:

I'm disappointed we didn't find time for the dinner/discussion we had hoped to have with Senate President Burke and Speaker Barkis before the legislative session. It would have provided an opportunity to cover the most important challenge that you, the legislature, and all Americans face; *our economy and future as a free people!*

THE PROBLEM: the only possible mathematical outcome of our current monetary and fiscal policies is economic bondage for all Americans except the owners of the Federal Reserve System; a privately owned bank. Knowing of your Christian commitment, I will approach the problem from that perspective and the preface that Liberty (Gal. 5:1) is contingent on the opportunity for economic independence.

RELATED FACTS: God created the heaven and the earth (Gen.1:1), gave us the operating instructions (over 70% of the Bible is devoted to government) and specified the penalties for failure to follow them. (Deu. 23:19 & 20 and 28:25-67) The Bible is the perfect law of Liberty! (James 1:25) On many occasions, God condemns usury and borrowing. (Duet. 28:12; Ex.22:25; and Lev. 25:36-37) In Prov. 22:7, we find "*the borrower is the servant to the lender.*"

The coinage act of 1792 says "*The money of account of the United States shall be expressed in dollars*" and defines it as 375 1/4 grains of fine silver. Today, there is no U.S. money of account! Federal Reserve Notes and non silver coins are used as money; a note being a representation of a debt that the FED was unlawfully authorized to create and loan into existence. I say unlawfully as the Constitution (Art.1 Sec. 8-5) gave Congress the power to coin money and provides no authority for an abrogation or transfer of specified powers. Also, the U.S. Supreme Court, in *Ling See Fan vs. U.S.*, stated: "*The power to coin money and regulate the value thereof, and of foreign coin is a prerogative of sovereignty and a power exclusively (my emphasis) vested in the Congress of the United States.*"

Federal Reserve Notes and bank credits come into existence via a loan! Never is the interest created simultaneously! Therefore, the total principal and interest owed by the private and public sectors can never be repaid. To moderate foreclosures on our real wealth (homes, farms, businesses etc.) we, as a nation, must forever go deeper into debt at an ever faster (exponential) rate. The slope of the curve depicting our needed rate of increase has technically become asymptotic to the ordinate. This means that we, as individuals, can no longer produce enough new collateral to meet the demand for the new "money" required to avoid massive foreclosures. Only the Federal Government has the power and authority to borrow enough to meet the need. In doing so, it is also mortgaging our new wealth and the day is coming when even the Federal Government won't be able to borrow. Every attempt to reduce the required rate of increase of our combined debt results in a recession (see incl.1) and an acceleration in the transfer of our real wealth to the banking system. The FED is the greatest hoax and swindle of all time!

DISCUSSION: Until this problem is resolved, your frustration, that of your peers, our state legislators and the public will grow! Tax shifts cannot solve the problem; only delay the demise of some sectors of society at the expense of others. Reduced government spending cannot solve it; only change the timing. Though a state bank would net about \$40 million /yr, it would not solve the problem. While such actions may buy time with which to solve the problem, they should be recognized as such; not used to mask the real problem. At best, such acts can only prop up a mathematically unsound system. *They can only defer – not prevent – the bankruptcy of Kansans, and their state and nation.*

Att. 5

4

SOLUTION: Honest government! Step 1 is for Congress to be "encouraged" to acknowledge the truth and responsibility act. We see three ways to provide this: (1) You, the states legislative leadership, and knowledgeable leaders of several Kansas organizations could meet with the Kansas Congressional delegation to insure they understand the problem and determine their willingness to introduce corrective legislation; (2) an informed public (which you and the legislature can help create by acknowledging and honestly addressing this issue) could replace our poorly informed and/or hypocritical incumbents; and (3) you and the legislature could go public with legislation to be enacted if Congress fails to responsibly act.

This legislation would include two key actions. 1. A bill authorizing the state to coin and spend into circulation its own debt free money. Such a bill was introduced in Nevada (see Incl. 2) 2. Should Congress still refuse to take responsible action, Kansas can follow the example being set in other parts of the world by reasserting its sovereignty.


Tough talk and drastic action? You bet! But the alternative is to acquiesce to tyranny; to forfeit our posterities birthright (and ours) to life, liberty and property; to dishonor our heritage and the lives and sacrifices of the patriots who founded and have defended this nation; to assume most elected officials are agents of the FED who have no intention of honoring their oath of office; or to conclude the destruction of our independence, liberty, God given Rights and government of, by and for the people is lawful and due to flaws in the Constitution. We reject each alternative! It's time those who believe in America to "stand tall" and reject the NEW WORLD ORDER reported as *"A world that has a supernational authority to regulate world commerce and industry; an international organization that would control the production and consumption of oil; an international currency that would replace the dollar; a World Development Fund that would make funds available to free and communist nations alike; and an international police force to enforce the edicts of the New World Order."* Such a world can only be built on the ashes of our lawful government.

I believe you were elected against the odds because most Kansans trusted you and thought you would give them honest government. Kansans are special and tough! I believe they will stand squarely behind you if you do what's right.

Public Law 97-280 declared the Bible to be the Word of God and the United States to be a Christian Nation. We can make it one by being "doers of the word and not hearers only, deceiving your own selves" (James 1:22) for he "whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be bless in his deed." (James 1:25)

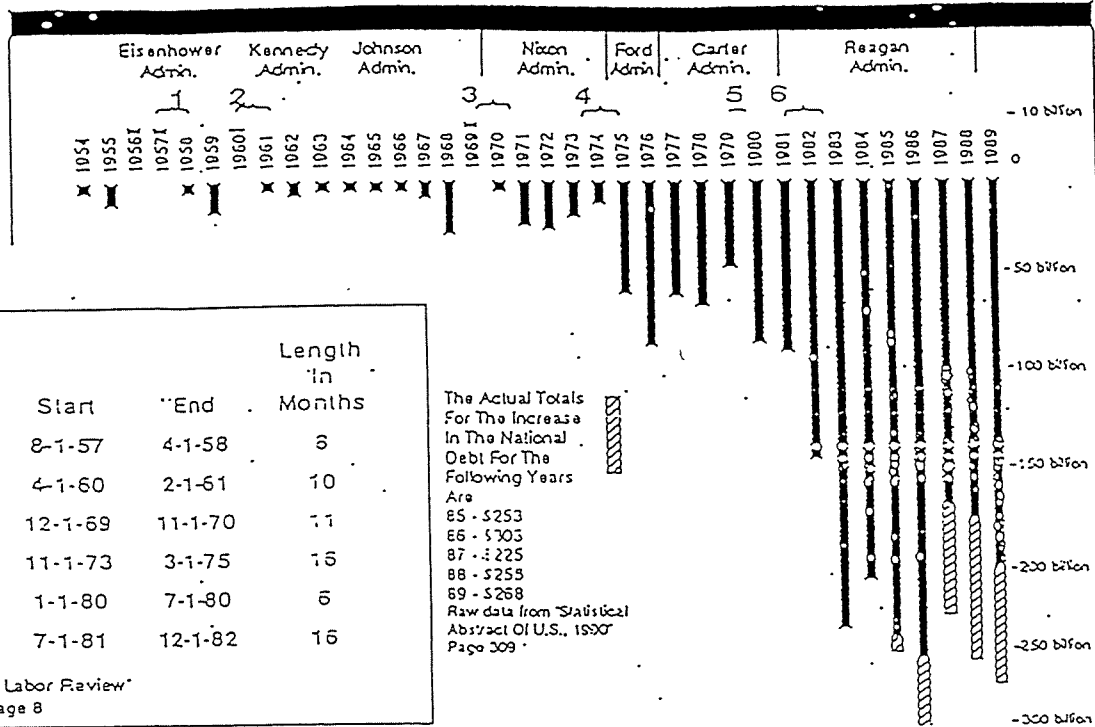
I pray God inspires you to honor your oath of office and gives you the wisdom and courage to do so. The opportunity to peacefully meet our challenges is wide open! Will you help seize it and do "whatever it takes" to help reinstate lawful government across Kansas?

Sincerely,


WALTER L. MYERS
Co-chairman
Informed Voters Alliance

Copy furnished:
Attendees - KSPACC 91-2
Selected Members - Kansas Legislature
IVA members
Others

HAS THE BALANCED BUDGET BEEN A SCAM



Source: "Monthly Labor Review" 12/84, Page 8

This graph shows the U.S. budget surpluses and deficits from 1954 to 1989. The recessions are numbered and plotted on the graph.

We are told we must balance the budget. Look at the record and find out what happens when we do! Shortly after each balanced budget we had a recession! Check the record! Notice the many years between numbers 2 and 3. No surpluses and no recessions until the surplus in 1969. By December 1, 1969 number 3 started! No one has dared to balance the budget since!

The large deficits in '71 and '72 got the economy going again. The deficit was reduced in '73, but before the budget could be balanced, number 4 started November 1, 1973. The pattern was repeated with numbers 5 and 6.

We had number 4 when the deficit was reduced to about \$5 billion, number 5 at about \$40 billion, and number 6 at about \$70 billion. Recessions 5 and 6 were so close, because the deficit in '81 was too small to keep the recovery going. Just look at the huge deficits required

to end number 6!

Since 1985, many items have been taken "Off Budget" to hide the true size of the deficit. Notice how the national debt has been increasing more than the reported deficit! If they aren't spending it, why are they borrowing it?

Note the large reduction from '86 to '87. Could this be the reason for the October '87 market crash? Economists predicted a depression within 6 months. Why were they wrong? The '88 and '89 debt increase figures tell us the answer. The government borrowed enough to stimulate the economy out of the predicted depression!

Our monetary system was altered in 1913 by the Federal Reserve Act. Roosevelt took us off the Gold Standard in the 1930's and started basing our money on federal debt. This means interest is paid on every Federal Reserve Note in circulation. With this system, if there were no debts, there would be no currency! So much for paying off the national debt! With the Gold Standard, the budget could be balanced and the economy would remain healthy.

It appears our "Dollars Created" By

"Debt" system won't allow the economy to function when we have a budget surplus! Did you really believe those promises to balance the budget? Try to find a time, since 1969, when reducing the deficit helped the economy! It seems that anytime the economy slows down, no matter how big the deficit is, it must be increased or we have a recession! The media doesn't tell you this. You must think for yourself! The "insiders" have known and used this formula since the 1930's, now you know it too!

This is so obvious when it is presented like this, that many questions come to mind. Why isn't a graph like this in every economics text book? Instead, we find complex charts that seldom work! Why doesn't the media tell us, "The deficit is 20% ahead of last year, so business will be picking up soon?" Why have politicians told us since the 1930's that we must reduce the deficit and balance the budget to have a strong economy? Check that out on this graph. The answers to these questions should be very interesting!

For informational use only.
This may be copied.

Att 5
6

ASSEMBLY BILL NO. 297—COMMITTEE ON TAXATION

FEBRUARY 5, 1991

Referred to Committee on Taxation

SUMMARY—Requires state to issue money. (BDR 31-1102)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to state financial administration; requiring the state to issue money; providing that such money is legal tender for all debts in this state; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Chapter 353 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.
3 Sec. 2. *The legislature finds that:*
4 1. *The State of Nevada, at the time of its admission to the United States,*
5 *was a sovereign entity on equal footing with the 13 sovereignties that formed*
6 *the compact known as the Constitution of the United States.*
7 2. *In ratifying and approving the Constitution of the United States,*
8 *Nevada agreed to delegate certain of her sovereign powers to three agencies*
9 *of government, all in the form provided by the Constitution.*
10 3. *Among the powers delegated by Nevada was the sovereign power to*
11 *issue money. That power was delegated by Nevada and its sister states to the*
12 *Congress of the United States in section 8 of article I of the Constitution of the*
13 *United States.*
14 4. *Nevada also, in section 10 of article I of the Constitution, agreed not to*
15 *issue its own money. This agreement was conditioned upon the Congress*
16 *discharging its obligation to issue money as the agent of Nevada and its sister*
17 *states.*
18 5. *The delegation by the Congress of the power to issue money to the*
19 *Federal Reserve Bank, a privately owned corporation, is a violation of the*
20 *terms of the Constitution of the United States.*
21 6. *The failure of the Congress to discharge its obligation to coin money*
22 *pursuant to section 8 of article I of the Constitution of the United States*
23 *absolves the State of Nevada from its constitutional obligation not to issue its*
24 *own money.*
25 Sec. 3. 1. *The State of Nevada shall issue into circulation coins of the*
26 *State of Nevada in the face amount of \$50,000,000. The coins must contain 1*
27 *ounce of fine silver, must be alloyed to 90 percent fineness and must bear the*

— 2 —

- 1 *great seal of the state and the words "legal tender" and "twenty dollars."*
2 *The coins so issued are legal tender for all debts, public and private, in this*
3 *state.*
4 2. *Except as otherwise provided in this section, when the coins authorized*
5 *by subsection 1 are received into the state treasury, they must be reissued.*
6 *The coins must not be held as a reserve except as the legislature otherwise*
7 *directs.*
8 3. *If the legislature of the State of Nevada determines that the Congress of*
9 *the United States is fulfilling its constitutional obligation to issue money by:*
10 *(a) Requiring the Federal Reserve Bank to retire its circulating notes; and*
11 *(b) Causing the issuance of sufficient notes of the United States and other*
12 *currency to meet the needs of the commerce of the United States and of*
13 *Nevada,*
14 *the state treasurer shall retire the coins authorized by subsection 1 as they are*
15 *received into the state treasury.*

5-7

QUESTIONS FOR
KANSAS LEGISLATORS

Dear Sen. or Rep.

The economic well-being of all Kansans, our future as a free people, the reinstatement of our lawful government as an alternative to a NEW WORLD ORDER of economic bondage under a financial/industrial cartel and more is contingent upon honest, responsible, and courageous action in providing Kansans with Constitutionally directed money. It is especially important that you, a State Legislator, responsibly address this issue. We pray you are up to the challenge! We request you make your position on this issue known by answering the following questions:

1. Did you take an oath to support the Constitution of the United States? Yes No
2. Do you agree that via Art.1, Sec.8-5 of the Constitution, States delegated their power to coin their money to the U.S. Congress? Yes No
3. Do you agree with the U.S. Supreme Court's statement that "the power to coin money and regulate the value thereof is an act of sovereignty and a power exclusively vested in the Congress of the United States? Yes No
4. Do you agree the Federal Government lacks lawful authority to abrogate or delegate any power transferred to it via the Constitution of the United States to a third party? Yes No
5. If you answered any question in the affirmative, will you support responsible action to supply Kansans with Constitutional directed money? Yes No
6. If #5 is yes, please check which of the following actions you would support.
 - a. A joint resolution demanding Congress comply with its Constitutionally delegated power pertaining to the "coining " of money. (a draft proposed Resolution is attached)
 - b. A bill authorizing the State of Kansas to coin its own money.
 - c. State action notifying the Federal Government that Kansas finds the Federal Government's actions in support of a NEW WORLD ORDER, including that of forcing the citizens of the State of Kansas to use instruments of debt called Federal Reserve Notes as "money," has violated the principles, concepts, spirit and intent of the "Treaty of Peace" that concluded the Revolutionary War; the Declaration of Independence, the Constitution of the United States and the Bill of Rights and therefore, this State is choosing to follow the example that has recently been set by others in the world by re-asserting its sovereignty and independence.
 - d. Other (please describe)

Att. 5
8

DRAFT PROPOSED CONCURRENT RESOLUTION

TO: The President and Congress of the United States of America

Whereas; the Tenth Amendment makes it clear that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people" and

Whereas; the State of Kansas, via Art 1, Sec 8, Clause 5 of the Constitution for the United States transferred its "power to coin money and regulate the value thereof, and of foreign coin" to the Congress of the United States and

Whereas; the Federal Reserve Act of December 23, 1913 was imposed upon the citizens of Kansas in violation of the provisions of the Constitution for the United States and

Whereas; the Federal Reserve System, a privately owned banking system, was legislatively authorized to "coin" the nations money through a mathematically unsound debt-dominant system of money creation whose only possible mathematical outcome is FED ownership of all of our private and public real wealth of its choosing and mortgages on the remainder which violates the 5th and 14th amendments of the Constitution and

Whereas; the citizens of this State and nation have, because of this debt-dominant system of money creation, been forced to try to borrow their way to prosperity rather than acquire it thru earned income and

Whereas; the citizens of this State, the State itself, and the nation are in a severe economic crisis that is largely the result of the Federal Reserve Act of 1913, and

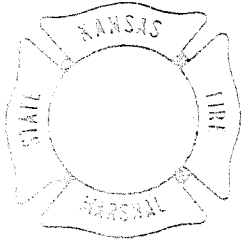
Whereas; it is extremely urgent that Congress act to repeal the Federal Reserve Act of 1913, eliminate the debt-dominant system of money creation and return this nation to a mathematically sound and Constitutionally correct system of money creation;

Be it resolved that the House of Representatives of the State of Kansas, the Senate concurring prays that:

1. The Congress immediately act to replace the debt-dominant system of money creation with a lawful system that is in compliance with the Constitution for the United States.

2. The President of the United States immediately sign the enabling legislation upon receipt in his office.

3. The Secretary of the State of Kansas immediately transmit copies of this Memorial to the President of the United States Senate, the Speaker of U. S. House of Representatives, and to each member of the Kansas Congressional delegation.



Kansas State Fire Marshal Department
700 Jackson, Suite 607
Topeka, Kansas 66606-5707
Phone: 913-233-6100
FAX: 913-233-6105

Assistant Attorney General Jim Coder, Esq.
Kansas State Fire Marshal Department

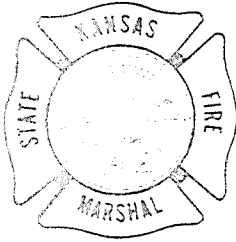
TESTIMONY OF JIM CODER
ASSISTANT ATTORNEY GENERAL
STATE FIRE MARSHAL DEPARTMENT
BEFORE SENATE FEDERAL & STATE AFFAIRS
MARCH 30, 1992
SB 736

The State Fire Marshal Department supports Senate Bill 736. This bill is a simple amendment to K.S.A. 31-150a regarding service of notice of violations of the Kansas Fire Prevention Code. As the law stands now, service must be by certified mail. The amendment adds, as an alternative, the notice of violations may be served personally by the Fire Marshal or his deputies.

This bill would allow our office to have some teeth in alleviating imminent fire hazards immediately. As it stands now, if our inspectors find an imminent threat, they must return all the paperwork to the office and before the clock starts running on the class B misdemeanor, a certified letter must be sent.

This will also allow us to save some money. Each certified letter costs about \$2.50. If our inspector could hand deliver it while he is inspecting the premises it would save some of this cost.

Virtually every document which starts a legal proceeding can be personally delivered. This just adds the fire marshal to the list.



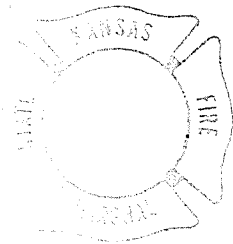
Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

*"Serving Kansans Through Fire Safety Education,
Fire Prevention Inspections and Investigation"*

TESTIMONY OF JIM CODER
ASSISTANT ATTORNEY GENERAL
STATE FIRE MARSHAL DEPARTMENT
BEFORE SENATE FEDERAL & STATE AFFAIRS
MARCH 30, 1992
SB 740

Senate Bill 740 would allow those people charged with enforcing the Kansas Fire Prevention Code to obtain inspection warrants. Right now it is unclear whether inspection warrants are available. Some district attorney's and judges have not issued for inspection purposes when inspectors have been denied access. This legislation would simply clear up any question as to the legality of such warrants.

This also must go through the court system providing a check and balance to the enforcement of this code.



Kansas State Fire Marshal Department
717 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone: (316) 236-3401
FAX: (316) 236-3131

Serving Kansas Through Fire Safety Education,
Fire Detection, Investigation and Investigation

TESTIMONY OF JIM CODER
ASSISTANT ATTORNEY GENERAL
STATE FIRE MARSHAL DEPARTMENT
BEFORE SENATE FEDERAL & STATE AFFAIRS
MARCH 30, 1992
SB 741

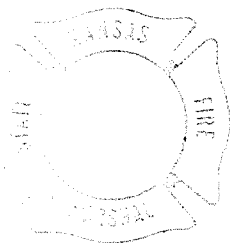
This bill would allow the State Fire Marshal Department to charge administrative penalties for violations of the Kansas Fire Prevention Code. This bill is drafted virtually verbatim from the administrative penalty statute of the Corporation Commission K.S.A.55-164.

This would provide us just one more tool to enforce fire safety. Under current law, violations of the fire prevention code are a class B misdemeanor case. It is difficult to convince county attorneys to spend much time on misdemeanor cases. It is also not very cost effective for me to be traveling to the far reaches of the state for this. An administrative penalty would provide us another option.

Additionally, some violations are of such a nature that this type of penalty would be appropriate. A building may be in such a condition that it meets fire prevention code obligations, except they chain exit doors.

We don't foresee using this a great deal, but it would be available for those certain cases.

We would request one amendment. Since this was drafted HB 2611 was passed, creating the SFM fee fund. We propose that lines 33 and 34 be amended to put that money in our fee fund.



Kansas State Fire Marshal Department
777 Duane, Suite 808
Topeka, Kansas 66603-8714
Phone (316) 233-3400
FAX (316) 233-3130

Working Smoother Through Fire Safety Legislation
The Missouri, Iowa, and Kansas Fire

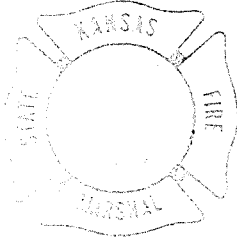
TESTIMONY OF
CHIEF ROSS K. BOELLING
FIRE PREVENTION DIVISION
BEFORE THE SENATE COMMITTEE
SENATE BILL 736
MARCH 30, 1992

I am here to testify in favor of Senate Bill 736. This legislation will improve the Misdemeanor penalty provisions of the Fire Prevention Code.

Currently, KSA 31-150a requires that violation notices be issued by restricted mail. Accordingly, if an inspector finds a serious situation that needs correction, or finds someone in non-compliance with our certification or registration programs, a notice must be drafted and mailed by restricted mail before the daily penalty provisions take effect. This creates a situation where the State may be aware of a situation for a day or more prior to official notification by restricted mail. I am not sure what the liability issues would be if something occurred in this interim period.

This legislation would provide the State Fire Marshal or deputies the authority to issue such notifications in person, thus eliminating this delay. While the office currently has a variety of enforcement tools available to it, this clarification would remove the existing delay factor in cases where the misdemeanor penalty was used.

We have not filed any misdemeanor charges or injunctions during my ten month period in this position, however we have one or two ongoing enforcement activities which may lead to these filings.



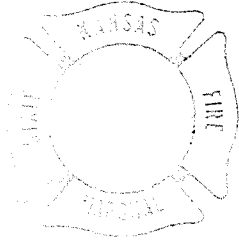
Kansas State Fire Marshal Department
700 Jackson, Suite 601
Topeka, Kansas 66603-3711
Phone 1913 293-5100
FAX 1913 293-7115

*Serving Kansas Through Fire Safety Education,
Fire Community Organizations and Fire Inspection*

TESTIMONY OF
CHIEF ROSS K. BOELLING
FIRE PREVENTION DIVISION
BEFORE THE SENATE COMMITTEE
SENATE BILL 740
MARCH 30, 1992

I am here to testify in favor of Senate Bill 740. While I believe that the provisions of KSA 31-139 include the authority of an administrative search warrant for fire prevention matters, our legal counsel informs me that there is some ambiguity and grayness in the existing provisions for gaining admittance to conduct a fire safety inspection. This proposed legislation would clarify this matter.

While none of my inspectors have been denied access during the past ten months, some local jurisdictions report that this does occasionally occur. As my inspection and enforcement programs at the state level increase, I would expect an increased incidence of refused admittance to my staff.



Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-5701
Phone: 785-233-5100
FAX: 785-233-5115

Serving Kansas Through Fire Safety Education,
Fire Prevention, Inspections and Investigation

TESTIMONY OF
CHIEF ROSS K. BOELLING
FIRE PREVENTION DIVISION
BEFORE THE SENATE COMMITTEE
SENATE BILL 741
MARCH 30, 1992

The Kansas State Fire Marshal has a variety of enforcement tools available to insure compliance with the Kansas Fire Prevention Code including issuing a Cease and Desist Order, filing Class-B Misdemeanor charges or requesting an Injunction. Administrative penalty authority would be a more desirable avenue in situations where an immediate monetary deterrent would be most effective.

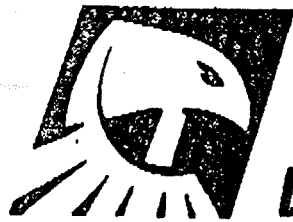
I have several illustrations where an immediate deterrent would be more effective:

1) For our certification and registration programs, a monetary penalty for non-compliance would expedite compliance and act as a deterrent. For example, improper servicing of a fire extinguisher by a certified firm, or explosives blasting without complying with State Fire Marshal Regulations.

2) For certain levels of fire and life safety violations, a monetary penalty would expedite compliance and also act as a deterrent. For example, our discovery of a chained or padlocked exit door. Currently, we demand the removal of the lock, this would be more effective if we could also issue a monetary penalty for non-compliance.

I want to stress that this authority would be judiciously applied. We fully expect to adopt regulations defining those circumstances and related penalty amounts under the authority of this bill. The issuance of these penalties are limited to the State Fire Marshal. It is not my intent nor desire to become a large volume penalty agency, rather this authority would provide my Division with an additional tool to be used when situations warrant. Additionally, any penalty actions taken through this authority are subject to a review process.

In it's current form, the penalties are directed to the state general fund, I would suggest you consider placing the penalties in a special fund to purchase public fire education materials for statewide use or for some other directed matter.



**LAWRENCE
FIRE
DEPARTMENT**

Attach. 8

TESTIMONY

OF

RICH BARR
FIRE MARSHAL
LAWRENCE KANSAS FIRE DEPARTMENT

PRESENTED BEFORE

THE SENATE
FEDERAL AND STATE AFFAIRS
COMMITTEE

March 30, 1992

RE: SB 740

Att. 8
1

Mr. Chairman and Committee Members:

Thank you for conducting this hearing on Senate Bill 740. I appreciate the opportunity to provide testimony as it relates to the operation of the Lawrence Fire Department Fire Prevention Bureau.

I strongly support Senate Bill 740 which provides a mechanism to allow routine fire safety and prevention inspections of buildings and premises where access has been denied.

K.S.A. 31-139 provides the authority to the state fire marshal and those persons designated in K.S.A. 1972 Supp. 31-137 (of which I am one) to enter into all buildings for the purpose of examination, inspection or investigation to determine compliance with the rules and regulations of the fire prevention code.

A.G.O. 81-118 states "If admittance to a building subject to the code is denied, a search warrant, which may be issued ex parte, must be obtained prior to entry."

Search warrants require those persons or agencies requesting their issuance to show probable cause. In the case of routine fire safety and prevention inspections, there are several reasons for entering the premises:

- 1) To determine that no fire hazards exist which would adversely affect the property or occupants,

Att. 8
2

- 2) To assure that no fire hazards are present that may endanger adjoining property or occupants of other areas within the same structure, and
- 3) To allow firefighters the opportunity to visually examine the building interior to identify hazards or concerns that may affect firefighter safety or fire suppression efforts should an incident occur.

If such hazards are found, the regulations are already in place to require abatement. Probable cause cannot be shown in most cases of routine inspections, particularly if there are no recent inspection records (because access was previously denied) to draw upon when attempting to show the probability that fire hazards exist.

We do not propose or expect to use this inspection warrant to enter the private dwelling place of our citizens. More appropriately, this would require the issuance of a search warrant under current law. In K.S.A. 31-133 (a. 10.), single family dwelling units are exempted from requirements for fire safety inspections.

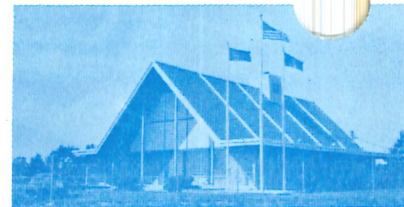
It is very important to the safety and welfare of the citizens of Lawrence, and all other Kansas communities, to allow routine fire safety inspections of occupancies that they frequent. I believe that the general population expects that any buildings or premises they enter for any purpose are reasonably safe. Passing this Senate Bill would assist those responsible for enforcing fire safety and prevention regulations in seeing that those expectations are fulfilled in all buildings within their respective jurisdictions.

Att. 8
3



VETERANS OF FOREIGN WARS OF THE UNITED STATES

Attac 9



DEPARTMENT OF KANSAS

April 2, 1992

Committee Members
Federal and State Affairs Committee
Kansas Senate
State Capitol Building
Topeka, Kansas 66612 Re: SCR 1642

Dear Committee Member:

In my testimony before your Committee supporting SCR 1642 to rescind the Kansas call for a Constitutional Convention, I stated the Kansas Veterans of Foreign Wars deep concern that the Convention could not be held to the single issue of balancing the federal budget, and our concern of what other issues might be brought before it.

I have attached several enclosures for your information and in support of my testimony.

I want to again state that the Kansas Veterans of Foreign Wars agree completely that the federal budget must be balanced, and that there are completely safe ways to accomplish that end.

The Constitution of the United States hs been amended 27 times by the amendment process, a tried and completely safe procedure.

Our belief is that if there is any doubt whatsoever as to the outcome of a Constitutional Convention, there should not be one called.

With these thoughts in mind, I hope you will join with us, the American Legion, Senator Kassebaum, Governor Finney, and many other Kansas Organizations and citizens and support SCR 1642.

Your consideration on this Bill is greatly appreciated.

Respectfully submitted,

DARRELL F. BENCKEN
State Adjutant/Quartermaster

JAY RITCHIE
State Commander
1005 W. 4th St.
Coffeyville, Kansas 67337

CHARLIE STEPHENS
State Sr. Vice Commander
2316 S. Ohio
Salina, Kansas 67401



CHARLEY SHOEMAKER
State Jr. Vice Commander
P.O. Box 1794
Leavenworth, Kansas 66048

DARRELL BENCKEN
State Adjutant Quartermaster
P.O. Box 1008
Topeka, Kansas 66601

Att. 9
1

Resolution No. 87

PROPOSAL TO RESCIND AND EXPUNGE KANSAS SENATE CONCURRENT RESOLUTION NO. 1661

WHEREAS, KANSAS SENATE CONCURRENT RESOLUTION NO. 1661, passed by the Kansas Legislature in 1978, requested and applied to the Congress of the United States to propose, or to call a convention for the purpose of proposing, an amendment to the Constitution of the United States which would require that, in the absence of a statutorily defined national emergency, total federal appropriations shall not exceed total estimated federal revenues in a fiscal year.

WHEREAS, PUBLIC LAW 95-435, (92 STAT 1053), which was approved by the United States Congress on October 10, 1978, provides, "Beginning with fiscal year 1981, the total budget outlays of 31 USC 27, the Federal Government shall not exceed it's receipts".

WHEREAS, we, the members of the Veterans of Foreign Wars of the Department of Kansas, feel that the convening of a U.S. Constitutional Convention is extremely dangerous and could be harmful to the very foundations of our United States Constitution, and

WHEREAS, we, the members of the Veterans of Foreign Wars of the Department of Kansas, feel that a better method of amending our U.S. Constitution is by submitting proposed amendments to the individual States for ratification, as currently provided by our Constitution, rather than convening a Constitutional Convention, and

WHEREAS, the passage of PUBLIC LAW 95-435, by the United States Congress accomplished the identical task that Kansas Concurrent Resolution No. 1661 proposed, and therefore

BE IT RESOLVED that the DEPARTMENT OF KANSAS VETERANS OF FOREIGN WARS, request the 1992 Kansas Legislature to rescind and expunge KANSAS SENATE CONCURRENT RESOLUTION NO. 1661 which was approved by the 1978 Kansas Legislature, on the basis that it presents a possible danger to the very foundation of our U.S CONSTITUTION as written by our forefathers over 200 years ago, and is no longer required or appropriate for the purpose for which it was resolved, and

BE IT FURTHER RESOLVED that the DEPARTMENT OF KANSAS VETERANS OF FOREIGN WARS oppose any future efforts to advocate or propose a U.S. CONSTITUTIONAL CONVENTION.

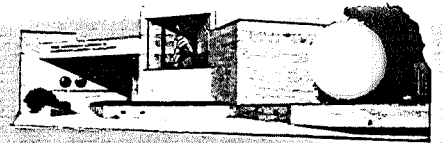
Submitted by Darrell F. Bencken and Lynn Hall

Committee Assigned LEGISLATIVE

Committee Action ADOPTED

Convention Action ADOPTED

The American Legion



1314 TOPEKA AVENUE TOPEKA, KANSAS 66612 (913) 232-9315

KANSAS DEPARTMENT

TO WHOM IT MAY CONCERN:

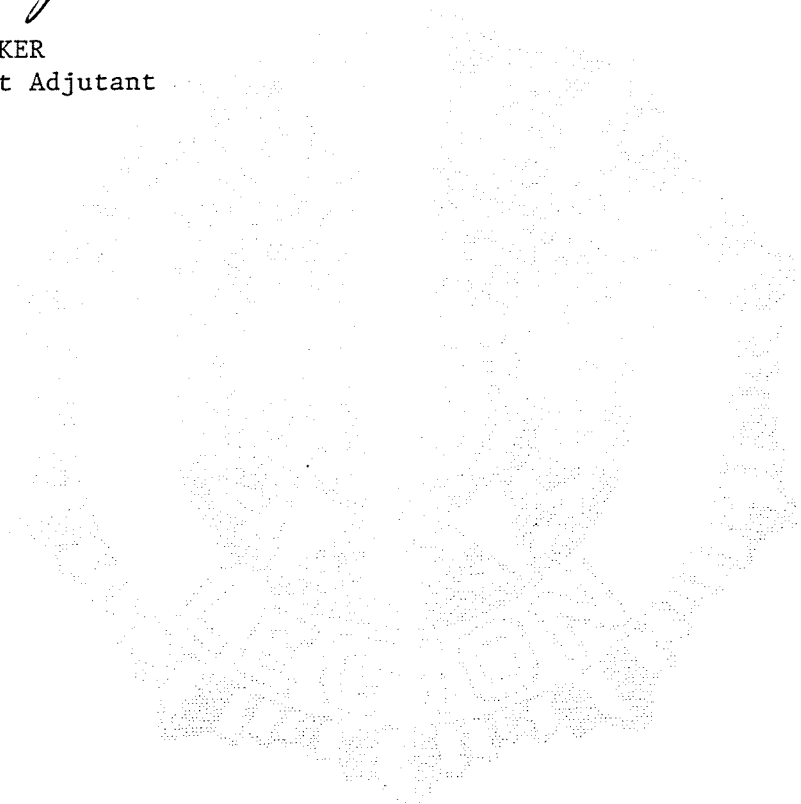
The Kansas American Legion stands with the Veterans of Foreign Wars in opposition to a Constitutional Convention.

Our organization has passed resolutions on the State and National level in opposition to a Constitutional Amendment and we urge the State of Kansas to rescind its call for a Constitutional Convention.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Yunker".

CHUCK YUNKER
Department Adjutant



Att. 9
3



"In my view the plurality of 'amendments' opens the door to Constitutional change far beyond merely requiring a balanced federal budget."

Christopher Brown
Professor of Law
University of Maryland



"My own belief is that a constitutional convention cannot be confined to a particular subject...."

Charles Alan Wright
Professor of Law
University of Texas



"My understanding of the federal convention is that it is a general convention; that neither the congress nor the states may limit the amendments to be considered and proposed by the convention."

Neil H. Cogan
Professor of Law
Southern Methodist University



"The discretion with which Congress may discharge this duty is pregnant with danger even under the most salutary conditions."

Lawrence G. Tribe
Professor of Constitutional Law
Harvard University



"A Convention might propose a single amendment but it would clearly have a wider range."

Jefferson B. Fordham
Professor of Law
University of Utah



"An Article V convention must be entirely general, and a state application asking for something other than that is void."

Charles L. Black
Sterling Professor Emeritus of Law
Yale University



"It is doubtful that Congress has the power to limit the convention to the proposal of amendments only on a single subject."

Charles E. Rice
Professor of Law
Notre Dame University



"In my view, a convention cannot be effectively limited."

Gerald Gunther
Professor of Law
Stanford University



"I have also repeatedly given my opinion that there is no effective way to limit or muzzle the actions of a Constitutional Convention. The convention could make its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or to one issue, but there is no way to assure that the Convention would obey it."

Warren E. Burger, Chief Justice (retired)
United States Supreme Court



"Constitutional, economic and political science experts are on record and have expressed concerns that the convening of a Federal Constitutional Convention would constitute a reckless use of a constitutional device which is little understood and has never been employed in our entire history."

Linda Rogers Kingsbury, President
Citizens to Protect the Constitution

Att. 9
4

Women leaders against 'con-con'

"The opposition to a constitutional convention is bipartisan, too," said Elaine Donnelly, spokeswoman for the Republican Women's Federation of Michigan, in a Lansing news conference last week.

Donnelly of Livonia joined U.S. Sen. Nancy Kassebaum, R-Kansas, in contradicting two Republican senators who favor calling America's second constitutional convention to write balanced-budget language into the nation's basic law.

A week earlier, Republican Sens. Robert Dole of Kansas and Dennis DeConcini of Arizona asked the state Legislature to make Michigan the 33rd state to petition Congress for a "con-con." Such a convention would have to be called if 34 states petitioned for it.

"THE DRIVE for a constitutional convention is dangerously close to becoming a reality," said Donnelly, "primarily because of a nationally directed campaign that has either censored the truth, disguised it, or stretched it beyond the breaking point."

Far from using the con-con resolution as a ploy to push Congress into writing its own balanced-



'The drive for a constitutional convention is dangerously close to becoming a reality.'

*Elaine Donnelly
state Republican
Women's Federation*

budget amendment, she said backers of the legislative resolution are serious about revising the Constitution.

Donnelly quoted James Dale Davidson, chairman of the National Taxpayers Union, as saying he "prefers" calling a convention. At other times, however, literature supporting the balanced-budget/con-con resolution say no convention ever will be called, she said.

"In other words, Mr. Davidson seems perfectly willing to let people believe what they want to believe with regard to a con-con — a classic example of political 'bait and switch.'"

WHILE SUPPORTERS of balanced-budget/con-con have cited polls, Donnelly called the poll results misleading because:

"Virtually all of the public opinion polls on this issue by the proponents have censored out the fact that a con-con call is at the heart of the Balanced Budget resolution, known in this state as Senate Joint Resolution A."

The Livonia precinct delegate, an alternate to last year's GOP National Convention, operates her own media-consulting business.

Although known for supporting such conservative causes as opposition to the Equal Rights Amendment, Donnelly insists con-con isn't a true conservative issue because conservatives tend to oppose tampering with the U.S. Constitution.

KASSEBAUM, Kansas' junior senator, is at odds with her senior senator and Senate majority leader, Dole, on con-con. She urged Michigan lawmakers to reject SJR A, which has passed the Senate but been rejected in the House.

Dole, in a Lansing news conference a week earlier, called the con-con fears "a specious red herring." At his news conference, he was greeted by a number of Republican women wearing homemade badges resembling a Campbell's Soup can with the slogan "Can Con-Con."

Last year, then state-Rep. Ruth McNamee, R-Birmingham, stalled the issue when her key vote kept the resolution from being reported out of a House committee.

447.9
5
7
4

STATE OF OREGON SENATE WITHDRAWS CALL FOR CONSTITUTIONAL CONVENTION

By Alan K. Ota, THE OREGONIAN STAFF

SALEM—The Senate approved a measure Tuesday removing Oregon, long a supporter of a federal balanced-budget amendment, from a list of 30 states calling for a constitutional convention to consider the amendment.

The Senate voted 19-10 to repeal a 12-year-old legislative resolution calling for a convention to draft the amendment requiring a balanced federal budget.

Senate Joint Memorial 10, which now goes to the House, would instead support an alternative method of achieving the constitutional amendment—a referral by Congress, requiring approval of three-fourths of the state Legislatures. A wide range of political, religious and labor groups supported the call to revoke the request for a constitutional convention which they said could venture far beyond the balanced-budget amendment in revising the U.S. Constitution. The supporters included such diverse groups, for example, as the Oregon Citizens Alliance, the American Civil Liberties Union, the Oregon Association for Evangelicals and both major political parties.

Sen. Grattan Kerans, D-Eugene, said the legislators had acted "in haste" in 1977 when they approved a call for a constitutional convention to consider a budget amendment. "It's a bad means to a good end," Kerans said.

He said Congress had defeated previous efforts to refer a balanced-budget amendment, but that he believed support for the measure could grow. He said referral of the amendment to state Legislatures would be preferable to calling a national constitutional convention.

"Once you call one of these things, all kinds of things can go wrong," he said. "We're playing a game of constitutional chicken when we add our name to this call for a constitutional convention."

Senate Republicans argued for a substitute bill which would have continued to call for a constitutional convention as a means of pressuring Congress to support referral of a balanced-budget amendment to state Legislatures for ratification. Senate Republican Leader C.T. "Cub" Houck of Salem said that federal spending needed to be limited and that he doubted Congress would favor a balanced-budget amendment without the threat of a constitutional convention.

"It puts a gun at Congress' head and says basically if you don't write it, we'll write it," Houck said. "We'll never have a balanced-budget amendment if we have to wait for Congress to act." The push for constitutional convention to consider a budget amendment gathered steam in the 1970s at a time when public concern about federal deficit spending was growing. While deficit worries remain, the potential for major changes in the constitution has prompted strong opposition from groups on the political left and right.

At its high-water mark, the convention was requested by 32 states—two short of the two-thirds required to call a convention. Kerans said the time has turned in the last two years, as two states, Alabama and Florida, have rescinded their support for a convention.

House Majority Leader David Dix of Eugene said the measure repealing the call for a constitutional convention would likely pass the House.

Photographic reproduction, Senate Joint Memorial 10, "Memorializes Congress to disregard proposals for constitutional convention to require balanced federal budget", on overleaf.

Reprinted from THE OREGONIAN, Portland, Oregon, 17 May 1989

Att. 9
6