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THE SENATE OF MARYLAND
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SJ8 – U. S. Constitution – Amendments Convention – Limitations on Federal Power

Chairman Pinsky, Vice Chairwoman Kagan, and members of the Education, Health, and Environmental Affairs Committee,

This resolution is being presented to offer a structural solution to a structural problem. It offers the chance to restore the balance of powers in our federal system by using our state legislature constitutional authority under Article V.

The activities of Washington, D.C. today would have been unimaginable to the founders of our country. Federal laws and regulations now touch upon every aspect of our lives, from what kind of light bulbs we can buy to farming practices to school curriculum to health care.

Meanwhile, we live under the shadow of a crushing national debt that threatens to envelop our grandchildren and their children. This has been a bipartisan problem with plenty of blame to go around. In addition Supreme Court throughout the past decades has vastly expanded federal power through its precedents with frequently willing accomplices in Congress and the Executive Branch. The Supreme Court has created loopholes to the Constitution's limit on federal power, and those loopholes will remain there until someone closes them.

That "someone"- by design – is supposed to be us as elected state legislatures. In their wisdom, our founders predicted that this very situation would arise over time. Toward the very end of the Constitutional Convention, George Mason specifically predicted that the federal government would one day overpower the states. And that is why he insisted that Article V include a way for states to propose constitutional amendments through a state-controlled convention.

Mason's proposal was adopted without dissent. This final version of Article V gave the states the ultimate constitutional power—the power to unilaterally amend the Constitution of the United States, without the consent of Congress.

The way it works: 2/3s of the state legislatures (34) pass resolutions applying for a convention to propose amendments on the same topic (which serves as the meeting agenda). Each state chooses and instructs its delegation of commissioners, who attend the meeting and work with the other state delegations to hammer out possible **amendment proposals** on the topic(s) specified in the 34 state applications. Because they act as agents of their state legislatures, the

commissioners only have legal authority to act pursuant to that specified agenda, and only to act in pursuance of their legislature's instructions. Every state gets one vote.

Any proposals that are supported by a majority of the states at the convention then get submitted back to the states for ratification. Only when 38 states ratify a proposal can it become part of our Constitution.

By passing the resolution before you, Maryland will effectively be raising its hand to say, "Yes, we believe it is time for the states to gather to consider proposing amendments that will re-balance federal power with state power." Specifically, the Article V convention called pursuant to SJ8 would be limited to three topics for amendment proposals:

1. Amendments that impose common sense fiscal discipline on the federal government;
2. Amendments that again responsibly limits the power and jurisdiction of the federal government; and
3. Amendments that set term limits for federal officials—including or possibly limited to federal judges as well as department heads.

Now, let me be clear, this does not mean that the convention must propose an amendment on each of these topics. Rather, these topics describe the outer limit on what would be germane for consideration at the convention.

My motivation for introducing this legislation is not just because of the central idea of the need to limit and reorder the federal government's hold on local and state governments, although that is certainly important. My motivation is also watching the out-of-control vitriol and lack of trust that has surged in the past decade as it relates to national politics. Who is in the White House and who controls Congress has taken on what should be outsized importance as the federal government's power has surged to the point where one side fears the other will drastically and punitively change the other side's way of life irrevocably. I believe that a part of the solution to this rancor is to calm and lower the stakes by purposefully restoring the proper balance of power to the government entities closer to the people and far more nimble, efficient and responsive in addressing specific, day-to-day problems than the federal government.

The Convention of States Action Maryland (all-volunteer) organization comprises 100s of volunteers and over 28,000 total supporters from all across Maryland. A few of them will be testifying here today and I humbly ask that you take to heart their testaments, and conclude with a favorable report.