

1 A bill to be entitled

2 An act relating to the Commission on Federalism;  
3 creating s. 11.9006, F.S.; creating the commission;  
4 providing for the membership, meetings, and staff  
5 support for the commission; providing for  
6 reimbursement of commission members for per diem and  
7 travel expenses; providing duties of the commission to  
8 evaluate federal laws for adherence to the United  
9 States Constitution and the principle of federalism;  
10 providing criteria and procedures for conducting the  
11 evaluations; authorizing the commission to recommend  
12 the calling of a special session in certain  
13 circumstances; requiring the commission to maintain  
14 certain information on its website; authorizing the  
15 commission to issue determinations regarding the  
16 constitutional authority for the evaluated laws;  
17 requiring the commission to monitor and communicate  
18 with other states on certain actions taken pursuant to  
19 Article V of the United States Constitution; requiring  
20 the commission to submit an annual report to the  
21 Governor and Legislature; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 11.9006, Florida Statutes, is created  
26 to read:

27 11.9006 Commission on Federalism.—  
 28 (1) CREATION.—There is created the Commission on  
 29 Federalism. The commission shall convene beginning in January  
 30 2015 and shall meet four times each calendar year unless  
 31 additional meetings are approved by the President of the Senate  
 32 and the Speaker of the House of Representatives. The President  
 33 of the Senate and the Speaker of the House of Representatives  
 34 shall assign staff to assist the commission.  
 35 (2) MEMBERSHIP.—  
 36 (a) The commission is comprised of seven members as  
 37 follows:  
 38 1. The President of the Senate or his or her designee, who  
 39 shall serve as co-chair of the commission.  
 40 2. A member of the Senate appointed by the President of  
 41 the Senate.  
 42 3. The Speaker of the House of Representatives or his or  
 43 her designee, who shall serve as co-chair of the commission.  
 44 4. Two members of the House of Representatives appointed  
 45 by the Speaker of the House of Representatives.  
 46 5. The Minority Leader of the Senate or his or her  
 47 designee.  
 48 6. The Minority Leader of the House of Representatives or  
 49 his or her designee.  
 50  
 51 For purposes of this section, a designee must be an elected  
 52 member of the same legislative body as the designator.

53 (b) A vacancy on the commission shall be filled in the  
 54 same manner as the original appointment.

55 (c) Members of the commission are entitled to  
 56 reimbursement for per diem and travel expenses pursuant to s.  
 57 112.061.

58 (3) DUTIES.—

59 (a) The commission may evaluate a federal law when agreed  
 60 to by a majority of the commission.

61 (b) The commission may request information regarding a  
 62 federal law under evaluation from one of more members of the  
 63 Florida Congressional Delegation.

64 (c) If a majority of the commission finds that a federal  
 65 law, agency, policy, mandate, or executive order is not  
 66 authorized by the powers delegated to the Federal Government or  
 67 any of its agencies under the United States Constitution or  
 68 violates the principles of federalism as described in subsection  
 69 (4), a co-chair of the commission may:

70 1. Request from one or more members of the Florida  
 71 Congressional Delegation information about the federal law or  
 72 assistance in communicating with a federal government entity  
 73 regarding the federal law.

74 2. Give written notice of an evaluation of the federal law  
 75 to the federal government entity responsible for adopting or  
 76 administering the evaluated law and request that the federal  
 77 government entity respond to the evaluation by a specific date.

78 3. Request a meeting, conducted in person or by electronic

79 means, with the federal government entity or any member of  
 80 Congress to discuss the evaluated law and any possible remedy.

81 4. Correspond with the presiding officers of the  
 82 legislative branch of another state or with an entity of another  
 83 state that has powers and duties that are similar to those of  
 84 the commission to discuss and coordinate the evaluation of and  
 85 response to the federal law.

86 (d) If agreed upon by a majority of the commission, the  
 87 commission may recommend to the Governor that he or she call a  
 88 special session of the Legislature to give the Legislature an  
 89 opportunity to respond to the evaluated law.

90 (e) The commission shall keep a current list on the  
 91 website of the Florida Legislature of the following:

- 92 1. Each federal law that the commission evaluates.
- 93 2. Any action taken by a co-chair of the commission under  
 94 paragraph (c).
- 95 3. Any response to an evaluation received from a federal  
 96 government entity.

97 (4) EVALUATION.—

98 (a) The commission shall determine whether a federal law  
 99 evaluated by the commission is authorized by any of the express  
 100 enumerated powers contained in the United States Constitution  
 101 and duly ratified amendments.

102 (b) The commission shall evaluate whether a federal law  
 103 violates the principle of federalism by:

- 104 1. Affecting the distribution of power and responsibility

105 between the state and the Federal Government.

106 2. Limiting the policymaking discretion of the state.

107 3. Affecting a power or a right reserved to the state or  
 108 its residents by the Ninth Amendment or the Tenth Amendment to  
 109 the United States Constitution.

110 4. Affecting the sovereignty rights and interests of the  
 111 state or a political subdivision to provide for the health,  
 112 safety, and welfare and to promote the prosperity of the  
 113 residents in the state or the political subdivision.

114 (5) (a) SOURCES.—In evaluating a federal law, the  
 115 commission shall rely on:

116 1. The text of the United States Constitution and duly  
 117 ratified amendments.

118 2. The meaning of the text of the United States  
 119 Constitution and duly ratified amendments at the time of  
 120 drafting and ratification.

121 3. A primary source document that is directly relevant to  
 122 the drafting, ratification, or initial implementation of the  
 123 United States Constitution and duly ratified amendments or  
 124 created by a person directly involved in the drafting, adoption,  
 125 ratification, or initial implementation of the United States  
 126 Constitution and duly ratified amendments.

127 (b) The commission may rely on other relevant sources,  
 128 including federal court decisions. However, the commission's  
 129 evaluation of a federal law is not bound by a holding by a  
 130 federal court.

131       (6) ARTICLE V ACTIONS BY STATES.—  
 132       (a) In addition to the other duties conferred by this  
 133 section, the commission shall have the duty to act as the  
 134 Legislature's liaison with the legislatures of the other states,  
 135 including monitoring the actions taken by, and communicating  
 136 with, the legislatures of the other states on the subject of  
 137 actions taken, or proposed to be taken, under Article V of the  
 138 United States Constitution. Included within this category are  
 139 resolutions, memorials, or other calls by the legislatures of  
 140 the other states on the United States Congress to either:  
 141       1. Call an Article V Convention of the States for the  
 142 purpose of proposing amendments to the United States  
 143 Constitution; or  
 144       2. Pass proposed amendments to the United States  
 145 Constitution for the states to consider ratifying.  
 146       (b) In furtherance of this duty, the commission shall:  
 147       1. Ensure that each state legislature is kept informed of  
 148 the official positions taken by the Florida Legislature pursuant  
 149 to Article V of the United States Constitution.  
 150       2. Ensure that all official actions taken or proposed to  
 151 be taken by other state legislatures or designated  
 152 representatives thereof in furtherance of an Article V  
 153 Convention of the States are timely reported to the Legislature  
 154 so that decisions about responses to, and participation in, such  
 155 activities can be timely made.  
 156       (7) REPORT REQUIREMENT.—By November 1 of each year, the

157 commission shall submit a report by e-mail to the Governor and  
 158 the Legislature, and post it on the website of the Legislature,  
 159 which includes the following:

160 (a) Action taken by the commission in accordance with this  
 161 section.

162 (b) Action taken by, or communications received from, any  
 163 of the following in response to a request or inquiry made by the  
 164 commission or any other action taken by the commission:

- 165 1. A member of the Florida Congressional Delegation;
- 166 2. A member of Congress from another state; or
- 167 3. A federal government entity, official, or employee.

168 (c) The status of all actions taken by the states under  
 169 Article V of the United States Constitution for the United  
 170 States Congress to either:

- 171 1. Call an Article V Convention of the States for the  
 172 purpose of proposing amendments to the United States  
 173 Constitution; or
- 174 2. Pass proposed amendments to the United States  
 175 Constitution for the states to consider ratifying.

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177 The report shall include each state's action; the date and the  
 178 subject matter thereof; how many other states have taken the  
 179 same or similar action; whether any action has been taken to  
 180 rescind, revoke, or amend a prior action; and any other  
 181 pertinent information concerning the status and progress of the  
 182 states' efforts at seeking amendments to the United States

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183 Constitution. The report required by this section should be  
184 amended or supplemented and resubmitted within a reasonable  
185 period of time after new information material to the subjects  
186 contained in the report is received.

187 Section 2. This act shall take effect July 1, 2014.