

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 18

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND APPLYING TO THE CONGRESS OF THE UNITED STATES TO CALL AN AMENDMENT CONVENTION OF THE STATES PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION FOR SPECIFIC AND LIMITED PURPOSES RELATING TO THE REDUCTION OF THE ABUSE OF POWER BY THE FEDERAL GOVERNMENT; ADOPTING CERTAIN RESERVATIONS, UNDERSTANDINGS AND DECLARATIONS LIMITING THE APPLICATION; AND ADOPTING CERTAIN SELECTION CRITERIA FOR COMMISSIONERS AS WELL AS LIMITATIONS UPON THEIR AUTHORITY.

Be It Resolved by the Legislature of the State of Idaho:

SECTION 1. Application of a Convention for Proposing Amendments.

WHEREAS, the Founders of the United States Constitution empowered state legislators to be guardians of liberty against excessive use of power by the federal government; and

WHEREAS, the federal government has created a crushing national debt through improper and imprudent spending; and

WHEREAS, the federal government has ceased to operate under a proper interpretation of the United States Constitution; and

WHEREAS, the federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent; and

WHEREAS, it is the solemn duty of the states to protect the liberty of our people, particularly for the generations to come, by proposing amendments to the United States Constitution through a convention of the states under Article V for the purpose of restraining these and related abuses of power.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that pursuant to Article V of the Constitution of the United States, the Idaho Legislature joins in the applications of the states of Georgia (SR 736, 2014), Florida (SM 476, 2014), Alaska (HJR 22, 2014), Alabama (HJR 112, 2015), Tennessee (SJ 67, 2016), Indiana (SIR 14, 2016), Oklahoma (SJR 4, 2016), and Louisiana (SCR 52, 2016) for a convention for the specific and exclusive purpose of proposing amendments to the Constitution of the United States limited to the purposes stated therein; provided, however, that the delegates from Idaho to said convention are expressly limited to consideration and support of amendments that impose fiscal restraints on the federal government, and amendments that limit the power and jurisdiction of the federal government and no other amendments on any topic whatsoever.

SECTION 2. Reservations, Understandings and Declarations.

- 1 1. An application to the Congress of the United States to call an amendment
2 convention of the states pursuant to Article V of the United States Consti-
3 tution confers no power to Congress other than the ministerial duty to name a
4 reasonable time and place for the initial meeting of a convention;
- 5 2. Congress shall perform its ministerial duty of calling an amendment con-
6 vention of the states only upon the receipt of applications for an amend-
7 ment convention for the substantially same purpose as this application from
8 two-thirds of the legislatures of the several states;
- 9 3. Congress does not have the power or authority to determine any rules for
10 the governing of an amendment convention of the states called pursuant to Ar-
11 ticle V of the United States Constitution. Congress does not have the power
12 to set the number of delegates to be sent by any state to such a convention,
13 nor does it have the power to name delegates to such a convention. The power
14 to name delegates remains exclusively within the authority of the legisla-
15 tures of the several states;
- 16 4. By definition, an amendment convention of the states means that states
17 shall vote on the basis of one state, one vote;
- 18 5. An amendment convention of the states convened pursuant to this appli-
19 cation shall be limited to consideration of the topics specified herein and
20 no other. This application is made with the express understanding that an
21 amendment that in any way seeks to amend, modify, or repeal any provision of
22 the Bill of Rights shall not be authorized for consideration at any stage.
- 23 6. Pursuant to Article V of the United States Constitution, Congress may de-
24 termine whether proposed amendments shall be ratified by the legislatures of
25 the several states or by special state ratification conventions. The Idaho
26 State Legislature recommends that Congress select ratification by the leg-
27 islatures of the several states.
- 28 SECTION 3. Procedures for Selection of Commissioners to Article V Conven-
29 tion and Limitations Upon Their Authority.
- 30 A. Any time a convention is called pursuant to Article V of the United States
31 Constitution, the selection of commissioners from Idaho to such convention
32 and their participation shall be governed as follows:
- 33 1. Eligible commissioners and alternates shall be residents of Idaho
34 for at least six months prior to their appointment and shall otherwise
35 meet the same qualifications necessary to hold office in the Idaho State
36 Legislature. Commissioners and alternates may include persons holding
37 public office, except that no member of the United States House of Rep-
38 resentatives or Senate shall be eligible.
- 39 2. The House shall select, by simple majority vote, 3 commissioners
40 who meet the eligibility requirements outlined in subsection (1), and
41 the Senate shall select, by simple majority vote, 3 commissioners who

1 meet said requirements. At least one commissioner from each chamber
2 shall not be a sitting member of the Idaho Legislature at the time of ap-
3 pointment. Each chamber shall nominate two additional persons to serve
4 as commissioners or alternates. The original six commissioners shall
5 agree upon a priority list of these four nominees. The first nominee in
6 priority shall become the seventh commissioner. The remaining three
7 shall become alternates and shall be assigned a ranking of first, sec-
8 ond, or third alternate to serve in that order should a vacancy occur for
9 any reason. This total of 7 commissioners and 3 alternate commissioners
10 shall constitute Idaho's delegation to the convention.

11 3. Each commissioner and alternate shall, by oath or affirmation as
12 provided for in the Constitution of Idaho, and as a condition of par-
13 ticipating in the convention, agree to faithfully and impartially
14 discharge all the duties incumbent upon a convention commissioner,
15 including the duty to abide by instructions established by concurrent
16 resolution of the Idaho State Legislature for participation in the con-
17 vention and not to act outside the scope of the call for the convention.
18 The taking of this oath shall be a condition precedent to the receipt
19 of the issuance of formal credentials to said commissioners. Each com-
20 missioner and alternate shall further agree to immediately notify the
21 Speaker of the House of Representatives and President Pro Tempore of the
22 Senate if he or she believes that any Idaho commissioner or alternate
23 has violated his or her oath or instructions while participating in the
24 convention.

25 4. After commissioners have been selected, the Idaho State Legislature
26 may by concurrent resolution recall commissioners or alternates to such
27 convention, or appoint new commissioners or alternates.

28 5. When the Idaho State Legislature is not in a regular session,
29 the Speaker of the House, together with the President of the Senate,
30 may call an extraordinary session of the Legislature to convene upon
31 forty-eight hours' notice. Notice by email shall constitute a valid
32 notice. Because the Legislature is acting under authority conferred
33 on it directly by Article V of the Constitution of the United States,
34 the requirement that the Governor shall call special sessions of the
35 Legislature is inapplicable, as governors have no authority under said
36 Article V. This extraordinary session shall be limited to a decision to
37 recall commissioners or alternates.

38 B. Prior to the administration of the oath to the commissioners, the Idaho
39 State Legislature shall by joint resolution provide instructions to the
40 commissioners selected pursuant to Section A regarding the scope of matters
41 they may consider and vote on at a convention, including rules of procedure
42 and proposed amendments. These instructions shall include, but shall not be
43 limited to:

44 1. An instruction that the Idaho commissioners may not support any vot-
45 ing rule for votes taken by the entire body (regardless if meeting as the

1 Committee of the Whole or otherwise) other than the rule whereby each
2 state exercises one vote; and

3 2. An instruction that on all voting matters at the convention (con-
4 cerning any vote taken by the entire body), the decision of a simple
5 majority of the Idaho commissioners shall constitute a single vote for
6 Idaho.

7 3. Individual commissioners may vote as an individual only in service
8 on committees other than the Committee of the Whole.

9 C. Any vote cast by a commissioner or alternate at an Article V Convention
10 that is outside the scope of:

11 1. The instructions established by a joint resolution adopted under
12 Section B of this chapter;

13 2. The limits placed by the Idaho State Legislature in a joint resolu-
14 tion that calls for an Article V Convention for the purpose of proposing
15 amendments to the Constitution of the United States on the subjects and
16 amendments that may be considered by the Article V Convention; or

17 3. If Idaho was not one of the states applying for the Article V Conven-
18 tion, the limits contained in the narrowest state resolution applying
19 for the Article V Convention;

20 is void.

21 D. In the event that the Speaker of the House of Representatives or President
22 Pro Tempore of the Senate receives written notice from any other Idaho com-
23 missioner or from a member of either the Idaho House or Senate, that a commis-
24 sioner is alleged to have violated his or her oath or instructions, a hear-
25 ing shall be called by the leader of each respective chamber, to be held on
26 the floor of each chamber. The sole issue in said hearing shall be whether or
27 not the commissioner has in fact violated the terms of his oath or instruc-
28 tions. If a determination is made by both chambers that such a violation has
29 occurred, the commissioner shall be discharged immediately and may no longer
30 represent Idaho at the convention. The alternate who is next in the priority
31 list shall immediately take the place of the discharged commissioner.

32 E. Alternates shall take the place of commissioners and may serve only if a
33 commissioner dies, resigns, or is discharged as specified in paragraph D.
34 Alternates shall take the place of commissioners in the order previously de-
35 termined.

36 F. Expenses for commissioners and observers to travel to and participate in
37 such convention shall be paid according to the per diem rate established for
38 members of the Idaho State Legislature as provided by the Citizens' Commit-
39 tee on Legislative Compensation.

1 RESOLVED FURTHER, that this application shall constitute a continuing ap-
2 plication for such amendment convention of the states pursuant to Article
3 V of the United States Constitution until the legislatures of two-thirds of
4 the states have made applications on the same subject and such convention has
5 been called by the Congress of the United States; however, this application
6 shall expire and have no further effect unless a convention is called for the
7 purposes specified herein within ten years of the date of its final passage;
8 and, be it

9 RESOLVED FINALLY, that the Clerk of the House of Representatives transmit
10 copies of this resolution to the President of the United States, the Speaker
11 and the Clerk of the United States House of Representatives, the President
12 and the Clerk of the United States Senate, the members of the Idaho Congres-
13 sional Delegation, and the legislatures of each of the several states, at-
14 testing the adoption of this resolution by the Idaho State Legislature.