

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 9

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ESTABLISHING PROVISIONS REGARDING COMMISSIONERS REPRESENTING THE STATE OF IDAHO AT AN ARTICLE V CONVENTION OF THE STATES FOR PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

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

WHEREAS, the provisions of this resolution shall apply to all commissioners representing the State of Idaho at an Article V convention of the states for proposing amendments to the Constitution of the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following provisions shall apply to all commissioners representing the State of Idaho at an Article V convention of the states for proposing amendments to the Constitution of the United States:

SECTION 1. DEFINITIONS. As used in this resolution:

(1) "Advisory committee" means a committee consisting of members selected by the senate and the house of representatives using the process described in section 11 of this resolution to perform the duties as prescribed in this resolution.

(2) "Commission" means the resolution or other measure adopted by the legislature that sets forth the names of the appointed commissioners, the scope of their authority, and other instructions.

(3) "Commissioner" means a person selected by resolution of the legislature as provided in this resolution to represent this state at an article V convention for proposing amendments to the constitution of the United States.

(4) "Commissioning resolution" means the resolution adopted by the legislature that sets forth the names of the appointed commissioners and their commissions and instructions.

(5) "Delegation" means the group of commissioners and any interim commissioners chosen by the legislature to attend an article V convention with the powers and duties described in this resolution.

(6) "Interim commissioner" means a person selected by the advisory committee pursuant to section 7 of this resolution to fill a vacancy in the delegation.

SECTION 2. QUALIFICATIONS OF COMMISSIONERS. At the time of appointment and throughout an article V convention, a commissioner:

(1) Must be a United States citizen and have been such for at least five (5) years;

- 1           (2) Must be a resident of this state and have been such for at least five  
2 (5) years;
- 3           (3) Must be at least twenty-five (25) years of age;
- 4           (4) Must be a registered voter in this state;
- 5           (5) Must not be registered or required to be registered as a federal  
6 lobbyist at any time within the last five (5) years;
- 7           (6) Must not currently be a federal employee or contractor, other than  
8 a member of the United States armed forces, nor have been such at any time  
9 within the last five (5) years;
- 10          (7) Must not have held a federal elected or appointed office at any time  
11 within the last five (5) years;
- 12          (8) Must not have had any felony convictions for crimes involving moral  
13 turpitude in any jurisdiction, nor any felony convictions for any crime in  
14 any jurisdiction within the last ten (10) years; and
- 15          (9) Must not hold a statewide office while performing the duties of com-  
16 missioner or interim commissioner. For purposes of this section, a position  
17 as a state legislator shall not be considered a "statewide office."

18           SECTION 3. COMMISSIONER SELECTION AND REMOVAL. (1) Five (5) commis-  
19 sioners shall be named by a concurrent resolution passed by a majority of  
20 those present and voting in the senate and house of representatives in a  
21 regular or special session of the legislature. All commissioners shall be  
22 appointed by this process.

23           (2) The legislature shall maintain an odd number of commissioners in  
24 the delegation.

25           (3) A commissioner or interim commissioner may be recalled or removed  
26 at any time and for any reason by a concurrent resolution of the legislature.  
27 If the legislature is not in session, a commissioner or interim commissioner  
28 may be recalled or suspended from his duties by the advisory committee, pend-  
29 ing a vote of the legislature.

30           (4) A commissioner or interim commissioner shall be recalled or sus-  
31 pended by the advisory committee pursuant to a determination under section  
32 12 of this resolution that he has exceeded the scope of his authority.

33           SECTION 4. COMMISSIONING RESOLUTION. (1) The resolution naming the  
34 commissioners shall include their commission. The commission shall include  
35 but shall not be limited to the following components:

36           (a) A commissioner shall not vote for or otherwise promote any change  
37 to the traditional convention rule of decision on the floor and in the  
38 committee of the whole, specifically that each state has one (1) vote;  
39 and

40           (b) A commissioner shall not vote in favor of any proposed amendment  
41 that would alter the text of the specific guarantees of individual lib-  
42 erty established by the constitution of the United States, including  
43 the bill of rights and the thirteenth, fourteenth, fifteenth, nine-  
44 teenth, twenty-third, twenty-fourth, and twenty-sixth amendments to  
45 the constitution of the United States.

46           (2) The commissioning resolution shall clearly state the scope of the  
47 commissioners' authority, which shall be limited by:

1 (a) If this state was not one of the two-thirds (2/3) of the states ap-  
2 plying for the convention, the subject matter enumerated in the thirty-  
3 four (34) state applications that triggered the convention; or

4 (b) If this state was one of the two-thirds (2/3) of the states applying  
5 for the convention, the subject matter in this state's application; and

6 (c) Any additional instructions from the legislature, whether in the  
7 commissioning resolution or issued thereafter.

8 (3) The legislature may provide additional instructions at any time  
9 via subsequent concurrent resolution, a copy of which the chief clerk of the  
10 house of representatives or secretary of the senate shall provide to each  
11 commissioner and to the advisory committee.

12 SECTION 5. OATH. (1) Each commissioner shall, before exercising any  
13 function of the position, execute the following oath in writing: "I do  
14 solemnly swear (or affirm) that I accept and will act according to the lim-  
15 its of authority specified in my commission and any present or subsequent  
16 instructions. I understand that violating this oath may subject me to penal-  
17 ties provided by law. I understand that I may be recalled or suspended from  
18 my duties by the legislature or the advisory committee."

19 (2) A commissioner's executed oath shall be filed with the secretary of  
20 state.

21 SECTION 6. CREDENTIALS. After a commissioner's executed oath is filed  
22 with the secretary of state, the chief clerk of the house of representatives  
23 or secretary of the senate shall provide to the commissioner an official copy  
24 of the executed oath and the commissioning resolution, which together shall  
25 serve as the commissioner's credentials.

26 SECTION 7. VACANCIES. Any vacancies shall be filled by the advisory  
27 committee's selection of an interim commissioner until such time as a con-  
28 current resolution is approved using the same process as in section 3 of this  
29 resolution.

30 SECTION 8. COMPENSATION AND EXPENSES. (1) A commissioner shall receive  
31 the same compensation as a member of the legislature, prorated for length of  
32 time served.

33 (2) A commissioner is entitled to receive the same allowance for ex-  
34 penses as provided to a member of the legislature.

35 SECTION 9. EMOLUMENTS AND GIFTS. Commissioners and interim commission-  
36 ers shall be subject to the same laws regarding emoluments and gifts as mem-  
37 bers of the legislature.

38 SECTION 10. QUORUM -- CONDUCT -- RULE OF DECISION WITHIN THE DELEGA-  
39 TION. (1) The commissioners within the delegation, including any interim  
40 commissioners filling a vacancy, shall choose from among them a person who  
41 shall chair the delegation. The chair or his designee on the delegation  
42 shall cast the state's vote on the convention floor and speak to the media on  
43 behalf of the delegation. The delegation may choose a different chair at any  
44 time.

1 (2) Each commissioner shall take care to avoid communicating to any  
2 person outside the delegation that the delegation is divided on a question on  
3 which the delegation has taken a formal position, including but not limited  
4 to casting a vote.

5 (3) No commissioner other than the one designated to communicate with  
6 the media on behalf of the delegation shall communicate with the media about  
7 convention business during the convention or during any temporary recess or  
8 temporary adjournment.

9 (4) A commissioner violating the provisions of subsection (2) or (3) of  
10 this section may be suspended or recalled by the advisory committee or by the  
11 legislature.

12 (5) The provisions of subsection (2) or (3) of this section shall not  
13 be construed to prevent a commissioner from presenting his opinions to the  
14 convention or debating a matter at the convention on which his delegation has  
15 not cast its vote.

16 (6) The quorum for decision by the delegation, including the designa-  
17 tion of commissioners for particular duties and the determination of how the  
18 state's vote shall be cast, shall be a majority of the delegation, and no ac-  
19 tion shall be taken unless a quorum is present. No decisions shall be made  
20 and no vote shall be cast if less than a majority of the delegation votes in  
21 the poll.

22 (7) Decisions for the delegation, a quorum being present, shall be a ma-  
23 jority of the delegation.

24 SECTION 11. ARTICLE V COMMISSIONER ADVISORY COMMITTEE. (1) The advi-  
25 sory committee shall consist of the following members:

26 (a) A member of the senate appointed by the president pro tempore of the  
27 senate;

28 (b) A member of the house of representatives appointed by the speaker of  
29 the house of representatives; and

30 (c) Another member of the legislature nominated by joint action of the  
31 president pro tempore of the senate and the speaker of the house of rep-  
32 resentatives and approved by a majority of both the senate and the house  
33 of representatives.

34 (2) The advisory committee shall select one (1) of its members as chair.

35 SECTION 12. MONITORING THE EXERCISE OF COMMISSIONER AUTHORITY. (1)  
36 Whenever the advisory committee has reason to believe that a commissioner or  
37 interim commissioner has exceeded the scope of his authority, the committee  
38 shall notify the speaker of the house of representatives, the president pro  
39 tempore of the senate, and the attorney general.

40 (2) Upon the request for a determination by the speaker of the house of  
41 representatives and the president pro tempore of the senate on whether a com-  
42 missioner or interim commissioner has exceeded the scope of his authority,  
43 the advisory committee shall issue a determination on whether the commis-  
44 sioner or interim commissioner did exceed his authority. The determination  
45 shall be expeditiously made and immediately communicated to the person re-  
46 questing it.

47 (3) Upon determining that a commissioner or interim commissioner has  
48 exceeded the scope of his authority pursuant to subsection (1) or (2) of this

1 section, the advisory committee shall immediately exercise its authority  
2 under section 3, subsection (3) of this resolution to recall or suspend such  
3 commissioner and shall communicate such action and the reasons for recall or  
4 suspension to the speaker of the house of representatives, the president pro  
5 tempore of the senate, the attorney general, and the presiding officers of  
6 the convention.

7 SECTION 13. INTERFERENCE WITH A COMMISSIONER'S DUTIES. Any individual  
8 who unlawfully and knowingly bribes, threatens, intimidates, or obstructs a  
9 commissioner, interim commissioner, or a person representing another state  
10 in the capacity of a commissioner or interim commissioner at a convention, in  
11 the performance of his duties, or attempts to do so, may be subject to crimi-  
12 nal penalties.