

ONE HUNDRED EIGHTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE RESOLUTION 31**

Introduced by Halloran, 33; Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41; Clements, 2; Dorn, 30; Erdman, 47; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Sanders, 45; Slama, 1.

Read first time January 18, 2023

Committee: Government, Military and Veterans Affairs

WHEREAS, the Founders of the Constitution of the United States empowered state legislators to be guardians of liberty against future abuses 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 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, the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

WHEREAS, it is the solemn duty of the states to protect the liberty of our people, particularly for the generations to come, to propose amendments to the Constitution of the United States through a convention of states under Article V to place clear restraints on these and related abuses of power; and

WHEREAS, in 2022 the One Hundred Seventh Legislature, Second Session, adopted Legislative Resolution 14 which contained an application for an Article V Convention to propose constitutional amendments identical to those proposed in this resolution, but provided that the application would be rescinded on February 1, 2027, five years after the passage of Legislative Resolution 14.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a

convention of states limited to proposing amendments to the Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress.

2. That the Legislature adopts this application with the following understandings, reservations, and declarations:

(a) An application to Congress for an Article V convention confers no power on Congress other than to perform a ministerial function to call for a convention;

(b) Such ministerial duty shall be performed by Congress only when Article V applications for substantially the same purpose are received from two-thirds of the legislatures of the several states;

(c) The power of Congress to call a convention solely consists of the authority to name a reasonable time and place for the initial meeting of the convention;

(d) Congress possesses no power whatsoever to name delegates to the convention, as this power remains exclusively within the authority of the legislatures of the several states;

(e) Congress possesses no power to set the number of delegates to be sent by any of the states;

(f) Congress possesses no power whatsoever to determine any rules for such convention;

(g) By definition, a convention of states means that states vote on the basis of one state, one vote;

(h) A convention of states convened pursuant to this application is limited to consideration of topics specified in this resolution and no other;

(i) The Legislature may recall its delegates at any time for breach of their duties or violations of their instructions pursuant to the procedures adopted in this resolution;

(j) Pursuant to the text of Article V, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states

or by special state ratification conventions. The Legislature recommends that Congress specify its choice on ratification methodology contemporaneously with the call for the convention;

(k) Congress possesses no power whatsoever with regard to the Article V convention beyond the two powers acknowledged in this resolution; and

(l) Nebraska places express reliance on prior legal and judicial determinations that Congress possesses no power under Article I of the Constitution relative to the Article V process, and that Congress must act only as expressly specified in Article V.

3. That this application hereby repeals, rescinds, cancels, renders null and void, and supersedes the application to the Congress for a convention under Article V of the Constitution of the United States by this state in Legislative Resolution 14 as adopted by the One Hundred Seventh Legislature of Nebraska, Second Session, in 2022; and

4. That the Clerk of the Legislature shall prepare an official copy of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, each member of the Nebraska Congressional delegation, and the presiding officers of each of the legislative houses in the several states requesting their cooperation.

5. This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications to Congress for an Article V convention on the same subject.