

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 01, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Hart, Hartgen, Wintrow, and Shea (Ruchti)

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

RS 31562 **Relating to Medical Records. Senator Ricks** asked to have **RS 31562** sent to print and returned to Chair VanOrden in the Health and Welfare Committee.

MOTION: **Senator Lee** moved to send **RS 31562** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey welcomed those attending the meeting and asked those who were speaking to keep their comments respectful and express their opinions on the bills. He stated **SCR 115** was heard first and **SCR 114** second. Public testimony was then heard relating to both bills.

SCR 115 **Relating to a Balanced Budget Amendment or Article V Convention. Senator Doug Ricks** stated findings of the Legislature and requested that Congress either propose a balanced budget amendment to the United States Constitution or call a convention for proposing amendments under Article V of the Constitution of the United States. **Senator Doug Ricks** stated this resolution would make the application under Article V of the U.S. Constitution for a convention limited to only the proposal for a balanced budget amendment for ratification by the states. Twenty-Seven of the thirty-four states required to call a convention have already passed similar resolutions. Idaho would become the twenty-eighth state. This resolution includes three parts. The first part requested Congress to pass a balanced budget and send it to the states for ratification. The second part was, if Congress had not proposed a balanced budget amendment by December 31, 2025, it would automatically trigger Idaho's convention call on the next day, January 1, 2026. The third part was a sunset provision that would automatically rescind Idaho's convention call on December 31, 2032. This resolution was limited to just the balanced budget amendment. The goal of the resolution was to use the threat of a convention achieved by thirty-three states to force Congress to act and propose their own balanced budget amendment.

TESTIMONY: **Loren Enns, Chairman of the National Campaign for a Balanced Budget Amendment** stated he was in favor of **SCR 115**. **Mr. Enns** suggested that the nation should follow former President Reagan's example of exerting influence to get Congress to do the right thing. No one wanted a convention if it could be avoided. The majority of the time Congress followed the will of the States. **Mr. Enns** stated he would follow the Balanced Budget handout he provided to show the proposed threat posed by the U.S. national debt (Attachment 1). Congress would not let control of the fiscal rules out of their jurisdiction. This added pressure should cause Congress to do the right thing. The concern about a runaway convention was minimal since only twenty-six state delegations were required to retain control. The last safeguard was with twenty-nine Republican controlled state legislatures, we would be unable to have the thirty-eight states required for ratification.

TESTIMONY: **Larry Craig** explained he became aware of Article V and how it worked from President Reagan as he campaigned for the presidency. A few years later, Mr. Craig was instrumental in organizing the club Congressional Leaders United for a Balanced Budget. **Mr. Craig** stated his study of the Article V Convention showed him the founding fathers did not trust a large, powerful, central government. They worked to get away from the king and pulled themselves into a nation, and they wanted to make sure authority was dispersed among the states. He added that voting for an Article V Amendment would give the people the power to change Congress.

Senator Wintrow asked if, without more concrete guidelines, there could be more things that would happen at a Convention than originally stated. **Mr. Enns** responded there were many stringent safeguards on controlling the Convention. If any delegate went beyond the scope of what they were allowed to talk about, their credentials could be revoked by the State and they would be removed from the Convention.

SCR 114 **Relating to a Constitutional Convention to set a Limit on the Number of Terms a Person may be Elected to Congress.** **Senator Cindy Carlson** stated **SCR 114** enjoyed the support of 84 percent of the people and the other 16 percent were not opposed. Support was high for passage of this legislation. Congress was broken, dysfunctional, and unwilling to repair itself. Incumbency allowed Congress to continue to function as they had for many years. **Senator Carlson** added Congress was supposed to be service that members did for a time before returning to their lives. It had become a lifelong career for various reasons. A large majority of people nationally, as well as in Idaho, believed there needed to be fresh blood in Congress. Congressional term limits would inspire better quality candidates to run, have an opportunity to serve and fix what was wrong with our country. In a world where one knew their time was limited, quality candidates were easier to attract. **Senator Carlson** stated term limits would not be accomplished by statute. They required a Constitutional Amendment. Article V resolutions were time tested and were an undefeated method of forcing congressional action. The Bill of Rights, presidential term limits, and women's right to vote were all accomplished through Article V Conventions.

TESTIMONY: **Constantine Querard** spoke in favor of **SCR 114**. **Mr. Querard** testified the only way changes would come was to support Congressional term limits. Congress would not do it on its own. Pressure from the states was the way to make this happen. Passage of **SCR 114** would right this issue and then people would have a chance to vote aye or nay on it.

DISCUSSION: **Senator Wintrow** asked how one would know what would or would not happen in a Convention. **Mr. Querard** assured her Congress had functioned for 240 plus years and the process had always worked. There was no 100 percent guarantee, but they were basing their prediction on what had always been and what had always worked. **Mr. Conrad** said there were risks and there were rewards. The reward would be to reform Congress and end the broken system.

Senator Lee stated she would retire and explained her experience over ten years. Her concern was term limits legislation would be trading experienced legislators for a specified term. **Mr. Querard** stated the executive branch had term limits but not the legislative branch. Lobbyists disliked term limits because of the relationships that had been built and then lost. Institutional memory mattered as did legislative experience. Some legislators had experience but many did not. Senators would not all be replaced at the same time. There would be rotational changes and grandfathering which would result in staggering of their terms. Some institutional knowledge would be available at all times. The current Congress valued seniority over everything and this had been very unhealthy.

Mr. Querard was asked to comment on his comfort level with the threat of a runaway convention. He replied he was very comfortable with the convention process. The chance of a convention was very small. **Mr. Querard** added he strongly encouraged the Delegate Limitation Act be used should a Convention be called. Should any amendment get ratified by 38 states, it would not be a hard left or a hard right idea. It would be a mainstream idea that had large support among the people of this country. The Convention was powerless. It only recommended, but it did nothing to change the Constitution. The states still had to ratify the proposed ideas.

TESTIMONY: **Michael Law** testified against **SCR 114**. **Mr. Law** stated the founding fathers discussed term limits for the legislature, for the judiciary, and for the president. They ended up with no term limits. He shared the opinion of the founding fathers stating "a continual change, even of good measures, is inconsistent with every rule of prudence and prospect of success." **Mr. Law** added the lame duck issue played a part in the down side of **SCR 114**. Another deterrent to term limits was the idea that someone would not subject themselves to the abuse that came with holding office if one was out at the end of the term. Another concern dealt with the loss of inducements for good behavior. **Mr. Law** said these thoughts were expressed by the founders themselves.

TESTIMONY: **Heather Terrell** testified in favor of **SCR 114**. **Ms. Terrell** stated she represented herself and her fellow graduate students. **Ms. Terrell** indicated they were very concerned about their future. She expressed the government was out of control with its spending, and stated fiscal restraints needed to be placed on Congress to protect their families and their future. **Ms. Terrell** also testified that she, and her fellow graduate students, wanted to get married and have children, but current economic challenges makes that difficult.

TESTIMONY: **Tom Munds** testified against **SCR 114**. **Mr. Munds** explained the root cause of the balanced budget amendment was not a problem with Congress. The problem was the people. He expressed concern that the states took a substantial amount of federal money and the federal government was not in favor of a balanced budget amendment, thus cutting off their funding. He expressed discomfort with the automatic triggering of a convention call. **Mr. Munds** felt there was not sufficient safeguards once a convention was called because it was an autonomous deliberate body.

DISCUSSION: **Senator Wintrow** asked what the rules of play for a Convention were and how all the different interests worked together. **Mr. Munds** responded there were not any rules for an Article V Convention. He suggested going to the Congressional Research Service reports and they said the states had no power over Congress in a Convention. He added, out of state experts said they could limit the convention and that was just not possible. Article V says a Convention was held specifically for the purpose of proposing amendments, not an amendment. **Senator Foreman** said he agreed that the people, not the Constitution were the problem. He felt the Congress behaved as they did because the people conditioned them to. He stated the people needed to fix the mess they created.

Senator Hart addressed who made the Congressional Research Service report on an Article V Convention the rules for the Convention. **Mr. Munds** responded that it did. He added that according to the Congressional Research Service, the states did not have control over their delegates, nor the state legislatures, nor the governor.

Senator Foreman stated that America was in trouble. He added the United States' culture had been conditioned to accept and demand from the government exactly what was received. **Mr. Munds** explained that the only thing that was between the federal government and the global elites that were running the world, was the Constitution. Until the people decided that they wanted to become educated and hold their state governments accountable, then the state governments already had the authority to hold the federal government accountable.

TESTIMONY: **Ron Crane**, retired State Treasurer, Idaho State Chairman for U.S. Term Limits, testified in favor of **SCR 114**. **Mr. Crane** stated in his position he had seen many people calling for a common sense, fundamental reform. The term limits amendment had a chance to work together to fix what was broken in Washington, DC. **Mr. Crane** explained **SCR 114** was a single subject resolution which added pressure for the federal government to take action or turn it to the states.

TESTIMONY: **John Howell** testified against **SCR 114** and **SCR 115** because of the wording of the legislation. **Mr. Howell** stated he had concerns about the 22nd amendment, which was the presidential term limit amendment, being adversely affected. **Mr. Howell** was afraid of the unknown consequences of a Constitutional Convention.

TESTIMONY: **Norm Semanko** testified in favor of **SCR 114**. **Mr. Semanko** stated Article V was the manner, the guarantee, and the ability of the state to reign in the federal government. The founders knew that Article V would be a way to rein in an out-of-control federal government. **Mr. Semanko** closed his remarks and stated that the Constitutional Convention was not to adopt amendments, but to propose amendments for the states to decide whether to adopt them.

TESTIMONY **Ron Nate**, President of the Idaho Freedom Foundation, testified against **SCR 115** and was neutral on **SCR 114**. He explained the problem wasn't the Constitution, and rewriting it would not help. **Mr. Nate** stated **SCR 114** was not what would help solve the problem and it had unintended consequences. This was not the solution.

Senator Foreman agreed with Mr. Nate that there was a problem and there were many options for a resolution. He asked if Mr. Nate thought something needed to be done to at least try to make a positive change. **Mr. Nate** proposed putting a limitation on the increase in spending each year or put a spending increase cap that could not be violated rather than using a balanced budget amendment. He added there was a need to stop the spending problem, not the imbalance problem, by taxing citizens more.

TESTIMONY: **Carrie Campbell**, Idaho State Director for U.S. Term Limits, testified in favor of **SCR 114** Term Limits. **Ms. Campbell** stated that 83 percent of the United States voters wanted term limits. Polls showed that Congress had an 8 percent approval rating and incumbents continued to get reelected. **Ms. Campbell** explained there were two reasons. Those reasons were name recognition and money. Incumbents raised over ten times the amount of their opponents. They used taxpayer money and their staff to get their message out to the people. She added Idaho had a chance to help compel Congress to do the right thing.

TESTIMONY: **Dale Pierce** testified against **SCR 115**. **Mr. Pierce** said he had concerns due to the lack of control the states would have over an Article V Convention. He felt strongly that Congress proposed the amendments and controlled what the Convention did. He added that Idaho's four member delegation had very little impact compared to delegations from other states.

SCR 115 **Chairman Lakey** asked for a motion and/or a discussion on **SCR 115**.

MOTION: **Senator Hart** moved to hold **SCR 115** in Committee. **Senator Wintrow** seconded the motion.

SUBSTITUTE MOTION: **Senator Lee** moved to send **SCR 115** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Hart** spoke against the Substitute Motion. He stated that a discussion of the type of money system used in our country needed to be had before a discussion of how to balance the budget. He explained that all money was created as debt and debt required interest payments. If 100 percent of the money was debt, the interest on the money was going to come from more debt. **Senator Hart** stated the budget could only be balanced with an asset-based money system, and the Constitution already gave the tools to achieve that.

Senator Foreman spoke to Senator Lee's motion. He believed the founding fathers were inspired. He compared the similarities between those men and our contemporary situations. **Senator Foreman** stated it was time for current leaders to step up and deal with the same types of issues the founding fathers dealt with. They had to look into the future and make decisions and they did. He stated that it was our current leaders' responsibility to follow their example.

Senator Wintrow questioned the process of how to get to a Constitutional Convention. She explained that Congress could not agree with what was wrong with the U.S., how the U.S. got there, what the solution was, and why things were in the situation they were. She did not support the motion.

Chairman Lakey said he believed the founding fathers were inspired to add Article V to the Constitution. They were familiar with the Convention process and intentionally created Article V. They gave citizens the rights as states to propose amendments through the Convention. **Chairman Lakey** explained a simulated process he was able to attend. It was much like a legislature. Two-thirds of the states came together and controlled themselves. They made the rules and held people accountable to adhere to them. In the end, three-fourths of the states had to ratify anything that came out of the Convention. He felt that the states needed to do something and the founders provided the avenue of states rights to take action.

Senator Hartgen supported the Substitute Motion.

MOTION: The substitute motion made by **Senator Lee** was to send **SCR 115** to the floor with a **do pass** recommendation. The motion passed by **voice vote**. **Senators Ruchti, Wintrow and Hart** asked to be recorded as voting nay.

SCR 114 **Chairman Lakey** asked to have a motion and/or a discussion on **SCR 114**.

- MOTION:** **Senator Anthon** moved to send **SCR 114** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.
- DISCUSSION:** **Senator Lee** supported the motion in order to allow a larger discussion concerning the three Article V resolutions. She reserved the right to change her vote on the floor.
- Senator Hart** voted against the motion because the actual amendment was not written.
- Senator Lee** changed her vote from aye to nay.
- VOICE VOTE:** The motion to send **SCR 114** to the floor with a **do pass** recommendation carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:05 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary