

## **Proposed Congressional Bicameral Rules**

The purpose of these bicameral rules of Congress is for the processing of Article V Convention applications by the state legislatures, the issuance of a convention call based on those applications and all other terms and conditions necessary and proper for the execution of the convention clause of Article V of the United States Constitution. The rules are authorized under §387 of Jefferson's Manual.

### **Clerical Responsibilities**

1a. The clerks of both houses of Congress shall establish such means and process as they deem proper to track, catalogue and otherwise record all applications for a convention for proposing amendments (hereafter an Article V Convention) and shall issue periodic reports of no less than twice a year (available to the public) to the leaders of both houses on the number of applications currently existing. In accomplishing this task the clerks shall work in coordination with the Article V Convention Joint Committee described in rule 1g-1k. The report shall also state whether any set of those applications meets the criteria established in Article V of the United States Constitution of application by two thirds of the several state legislatures necessitating a convention call. All applications by the state legislatures are federal public record once received or having been received by the clerks or otherwise received by Congress or in either house of Congress at any time or in any session of Congress present, future or past.

1b. In tracking the applications the clerks shall disregard any application purported to be a rescission of a previous application or applications submitted by a state legislature. Article V of the Constitution does not empower states to rescind any federal public record including all applications submitted by the state legislatures for a convention call. All applications are valid and in full force until by the action described in these rules it shall be used to cause a convention call at which time the application shall be deemed constitutionally discharged and no longer have effect or affect in causing a convention call.

1c. The clerks are empowered to employ or direct such agencies or other departments of the Government, most particularly the National Archives and Records Administration (NARA) to help gather the applications for the purpose of complete recordkeeping. The clerks shall establish such timetables for the gathering of the applications as shall be most expedient for the purposes of proper recordkeeping but the gathering of all applications from the national archives shall not exceed a period of one year from the enactment of these bicameral rules of Congress. No department or agency may decline any instruction or direction of the clerks in the collection of applications for an Article V Convention call.

1d. The reports issued by the clerks of both Houses of Congress shall include copies of all applications or if the report shall be made electronically, links to images of the applications. Upon determination that sufficient applications exist to satisfy the terms of Article V of the United States Constitution and require cause a convention call, the clerks shall immediately issue a public report to the leaders of both Houses of Congress notifying them of this fact. In all cases where used in these rules, the word "immediately" shall be interpreted to mean within 24 consecutive hours (holidays and weekends excluded).

1e. If, in the course of gathering the applications, it is discovered that multiple sets of applications each mandating a convention call exist, the application sets shall be discharged in consecutive submission order, oldest set to the newest set. No set of applications shall cause a convention call until the set or sets of applications preceding it in sequence shall have caused their convention calls to be issued by Congress and the convention caused by that set of applications has occurred. However under no circumstances shall more than two years elapse between a previous set of applications causing a convention call to occur and the next set of applications causing its convention call to occur.

1f. The term “a set of applications” is defined as a sequential series of applications submitted to Congress by two thirds of the several state legislatures. The applications shall be listed in sequential date order, oldest to the newest, within each set of applications and shall be limited to the number of applications equaling two thirds applications by the several state legislatures in the Union as of the date of the final application comprising that set of applications. The date which shall be used in all cases to determine the set of applications shall be the date on which the application received official approval by the state legislature. Each set of applications shall contain only one application from each state legislature.

1f(1). The clerks shall verify the text of the application contains language affirming the application is for a convention call by the Congress of the United States under the terms of Article V of the United States Constitution before listing it in a set of applications. Any subsequent applications received by Congress after the first application submitted by a state legislature for an Article V Convention call shall be placed in date order in a subsequent set of applications. This process of placement shall continue until all applications from all state legislatures are placed in the appropriate set of applications. The clerks shall create as many sets of applications as are required to accomplish this process.

1f(2). If any set of applications shall lack a total of two thirds of the several state legislatures, it shall be an open set of applications until such time as applications are received by Congress from the several state legislatures which shall complete that set of applications, at which time that set of applications shall cause Congress to call an Article V Convention call based on the sequence of call described in 1e. If a state legislature whose application is within an open set of applications shall transmit another application to Congress before the open set of applications shall be completed that application shall be placed in a new set of applications. If at any time prior to a set of applications being used to cause a convention call it is discovered an application by a state legislature should have been placed in the set of applications that it does not currently occupy the clerks shall take such steps as required to correct the records and place the application in its proper date location.

1g. Congress shall establish a permanent Special Joint Committee of Congress described as the Article V Convention Joint Committee for the purpose of addressing such matters and issues relating to the tracking of state applications for an Article V Convention, establishing such regulations as are necessary for the preservation of state applications, recommending language for all convention calls and to all other matters related to an Article V Convention which may be necessary and proper for Congress to issue a convention call and ratification of any proposed amendment or amendments a convention may propose.

1h. The committee shall not have authority to: (a) vote on whether a convention shall be called by Congress; (b) refuse to write or pass on any proposed bill, legislation or other motion intended to create a convention call or; (c) vote of whether or not an amendment or amendments proposed by a convention shall be ratified. The committee shall in no manner prevent a convention call (when required to occur under the terms described in Article V of the United States Constitution) from occurring or prevent Congress from choosing a mode of ratification for any amendment or amendments proposed by a convention. The committee shall at all times be guided in its actions by the principle stated by the Founders which was a convention call is “peremptory” which is taken to mean Congress shall have no power of debate or vote in the matter and “shall have no option” but to call the convention on every occasion when the states have submitted the proper number of applications as prescribed by Article V of the United States Constitution. The purpose of the committee shall be to operate at all times to ensure, to the fullest extent possible, compliance by Congress of this peremptory requirement of the Constitution.

1i. The committee shall be considered a standing committee in both houses of Congress and shall funded appropriately as shall be necessary for the execution of its duties. The committee shall be provided appropriate office space, staff and all other amenities afforded all other committees of Congress or of either house of Congress.

1j. The committee shall consist of the chairperson of each of the judiciary committees of the House and Senate, the ranking minority member of each of the judiciary committees of the House and Senate, the chairperson of the rules committee of the House and Senate, the ranking minority member of the rules committee of the House and Senate, the Speaker of the House and the President of the Senate. The committee shall select by random lot three members of Congress none of whom shall be members of either the rules committee or judiciary committee of either House or Senate (with at least one selected member not being of the same political party as the other two selected members) to bring the committee membership to thirteen members. The term of membership in the committee by members selected by lot shall expire at the end of each session of Congress and the committee shall conduct a new selection process by random lot at its first meeting in each new session of Congress. The committee shall meet on the third day of the new session of Congress and at such times thereafter as the circumstances regarding the business of the committee shall dictate.

1k. The committee shall select its own chairperson from its own membership whose term of office as chairperson shall expire at the end of each session of Congress. The committee shall establish such rules as shall be required for the execution of its duties. The committee shall have authority to conduct such hearings and other committee actions as are permitted to all other committees of Congress in order to effectuate it duties and shall be bound to all rules of Congress as they may apply in either house of Congress. All actions of the committee shall be recorded as a matter of public record immediately open to public inspection.

### **Committee of The Whole Congress**

2a. Upon receiving the report from the clerks of the Houses of Congress, the leaders of both Houses of Congress shall immediately move in both Houses of Congress to call Congress into a

Committee of The Whole Congress for the purpose of formally counting the applications so received and issuing a convention call. Unless otherwise specified by a rule in both houses of Congress, the term “leaders of both Houses of Congress” shall be interpreted to mean, the Speaker of the House, the President of the Senate, the majority leader in both houses of Congress, the minority leader in both houses of Congress and any other member of Congress which these leaders shall designate for the purpose of executing the provisions of these rules.

2a(1). A separate count of applications shall occur each time a set of applications satisfying the two thirds requirement of Article V of the Constitution of the United States shall occur. Other than national emergency the committee call shall have the highest level of privileged business in both Houses of Congress. The motion is non-debatable and requires no vote in either House of Congress. The Committee Of The Whole Congress shall meet not later than one day (consisting of twenty four consecutive hours) after the leaders of Congress introduce the motion to both Houses of Congress.

2b. As Congress has no power to decline calling a convention when the state legislatures shall apply, the words of the Constitution being positive, affirmative and peremptory, no debate or vote shall be permitted in the Committee of The Whole Congress, the sole purpose of the committee limited to counting applications and issuing a convention call based on that count of applications. The Committees Of The Whole Congress shall, within one day (consisting of twenty four consecutive hours) after being called into session by the leaders of Congress, count the applications.

2c. The leaders of Congress shall present the set of applications to the Committee of The Whole Congress received from the clerks and read the text of each into the Congressional Record. At the end of the reading of each application the leaders shall announce the count of that application and as each application shall be read into the Congressional Record shall increase the count of applications numerically and sequentially until the required two thirds count of applications shall be reached at which time the leaders shall announce to the Committee of The Whole Congress that, a sufficient number of applications from the state legislatures having been formally counted, a convention call based on that set of applications is mandated, required and demanded by the terms of Article V of the Constitution.

2d. Upon completion of the count of applications the Committee of The Whole Congress shall transmit to both houses of Congress a message that based on the count of applications conducted by the Committee of The Whole Congress a convention call is mandated under the terms of Article V of the United States Constitution. The Committee of The Whole Congress shall then immediately attend to the writing of a convention call. A separate convention call shall occur each time a set of applications satisfying the two thirds requirement of Article V of the Constitution of the United States shall occur. The Committee of The Whole Congress shall produce the required convention call within a period of five working days (holidays and weekends excluded). The Committee of The Whole Congress shall remain in session, all other business except national emergency suspended, until the Committee of The Whole Congress shall conclude its work. The Committee of The Whole Congress shall transmit the text of the convention call and count of applications to Congress immediately upon completion.

2e. The Committee of The Whole Congress may draft a "standing" convention call which may, by acclamation of the Committee, be adopted as the convention call each time a convention call shall be required. No filibuster of the business of the Committee of The Whole Congress or of either House of Congress shall be permitted. All members of Congress shall be limited to speaking on any matter before the Committee of The Whole Congress or Congress no more than a single time for a period not to exceed five minutes. The convention call shall include text instructing the convention by what means and manner it shall submit any proposed amendment or amendments to Congress to commence the choice of ratification mode as required by Article V of the Constitution.

2e(1). Should Congress fail to include such text, the convention shall be empowered to publish its proposed amendment or amendments (certified by the secretary or appropriate officer of the convention as being a true copy of the proposal) in a local newspaper of general circulation in greater Washington DC area on three separate consecutive days of publication (excluding weekends and holidays). Such publication shall be deemed to have satisfied the requirement the convention notify Congress of the amendment or amendments proposed and the clerks of both houses of Congress shall immediately undertake to initiate the ratification mode as described in these rules.

2f. Debate and vote on the matters of time, date and place for the convention shall be permitted in the Committee of The Whole Congress. No debate or vote shall be allowed which, as its object is to defeat a convention call by preventing the call from being issued by the Committee of The Whole Congress. Upon completion of the convention call and its transmission to Congress the Committee of The Whole Congress shall adjourn.

2g. If the Committee of The Whole Congress shall fail to count the applications within the prescribed period of time stated in these rules or fail to issue a convention call within the time prescribed in these rules the clerks shall count the applications and notify the state legislatures of the count and the failure of the Committee of The Whole Congress to issue a convention call. If no call shall be issued by Congress or the Committee of The Whole Congress, the convention shall default to convening on the date one year following that the clerks shall notify the states legislatures of the failure to call by Congress. The election of delegates shall take place in all states six months on the date following that the clerks shall notify the state legislatures of the failure to call by Congress. The convention shall meet in whichever state capital a state legislature may volunteer as the meeting place for the convention. Failure to count the applications or issue the convention call shall be deemed a violation of oath of office by all members of Congress.

### **Mode of Counting the Applications**

3a. Determination of two thirds applications by the state legislatures shall be based on the date of the last application (meaning the date on which the application was formally enacted by the state legislature) which shall create the set of applications causing the convention call. The date of the last application creating the set of two thirds applications by the state legislatures shall be used to

determine the two thirds ratio of applying state legislatures based on how many total states existed in the Union as of that date.

3b. The subject matter or topic of any proposed amendment or any other condition of text contained within an application which is intended to alter or effect a count of applications shall be disregarded by the Committee of the Whole House of Congress in its count of applications. Such matters as subject matter or topic of a proposed amendment shall be deemed by the Committee of The Whole Congress as issues for the Article V Convention to address upon it convening.

3c. Once an application shall have been counted by the Committee of The Whole Congress it shall be deemed constitutionally discharged and shall not be counted in any subsequent count of applications. The clerks shall create of a list of discharged applications which shall be entered in the Congressional Record as they occur. The clerks shall also enter the list of discharged applications in their reports issued to Congress.

### **Process of Issuing a Convention Call By Congress**

4a. Having received notice of the count of applications and the text of the convention call from the Committee of The Whole Congress the leaders of both houses of Congress shall sign, in the presence of Congress assembled (the Committee of The Whole Congress having adjourned), a formal convention call which shall include the formal count of applications listing the applying states causing the convention call, the date of count of applications by the Committee of The Whole Congress and the text of the convention call which at the minimum shall include a time, date and place for the convening of the convention and establish a date for direct election of convention delegates by the people.

4b. The formal convention call described in Rule 4a shall be immediately certified by both clerks of the Houses of Congress and entered into the Congressional Record. The clerks shall then immediately transmit copies of the convention call to the secretaries of state of all states in the Union and to all houses of all state legislatures. The clerks shall also release copies of the formal convention call to the general public with such public announcements as necessary announcing the convention call.

4c. As a convention call and count by Congress is peremptory under the terms of Article V of the United States Constitution, no debate or vote shall be permitted in either House of Congress regarding the count of applications or the text of the convention call submitted to it by the Committee of The Whole Congress. Congress shall immediately issue the formal convention call on receipt from the Committee of The Whole Congress.

### **Ratification Mode**

5a. If any convention shall propose an amendment or amendments to the Constitution which shall have received two thirds vote of the state delegations assembled in convention (each delegation having one vote), the leaders of Congress upon receipt of the text of such proposed amendments shall immediately move Congress become a Committee of The Whole Congress by

the same process described for calling Congress into session as a Committee of The Whole Congress for the purposes of counting applications and issuing a convention call. Receipt of text shall be defined as (a) use of the method of transmission by the convention as described in the convention call issued by Congress, or (b) physical transmission of the proposed amendment or amendments certified by the secretary of the convention or officer of the convention empowered to certify the text submitted is a true copy of the amendment or amendments proposed by the convention to either clerk of either house of Congress or (c) publication of the proposed amendment or amendments as described in rule 2e(1). The sole purpose of this Committee of The Whole Congress shall be choosing a mode of ratification (state legislature or state ratification convention) for the proposed amendment or amendments. The mode of ratification for each proposed amendment shall be applied individually. The choice of mode of ratification shall be made by the Committee of The Whole Congress within one day (consisting of twenty four consecutive hours) holidays and weekends excluded.

5b. While debate shall be permitted in the Committee of The Whole Congress as to choice of mode of ratification for any proposed amendment made by convention any vote conducted by the Committee of The Whole Congress shall be strictly limited between a choice of ratification by state legislature or ratification by state ratification convention. No terms, conditions or limitations to the proposed amendment made by convention shall be added by the Committee of The Whole Congress. Neither the Committee of The Whole Congress nor Congress shall have authority to decline to choose a mode of ratification for any proposed amendment or amendments made by convention as Article V of the Constitution of the United States only permits Congress to choose a mode of ratification.

5c. Upon choosing a mode of ratification the Committee of The Whole Congress shall immediately adjourn and transmit its decision to Congress who, without debate or vote, shall certify the mode of ratification. The Congress shall order the clerks of the Houses of Congress to transmit documentation of mode of ratification which shall include the text of the proposed amendment together with notification of which mode of ratification has been chosen by Congress to the secretaries of state of each state and all houses of state legislatures. If the Committee of The Whole Congress shall choose as its mode of ratification state ratification conventions, the Committee of The Whole Congress shall determine a date for direct election of delegates to the state ratification conventions.

### **Operational Matters Related to the Convention**

6a. Together with counting the applications and the drafting of a convention call, the Committee of The Whole Congress shall address all operational matters regarding the convention which at the minimum shall include enacting appropriations necessary for the convention to occur (not to exceed a period of one year) and such other operational matters as shall be necessary and proper to ensure the execution of the convention clause of the United States Constitution. Determination of these matters shall be immediately transmitted to Congress upon the adjournment of the Committee of The Whole Congress after completing its convention call. While debate and vote on such matters shall be permitted in Congress under the normal legislative rules of debate, if Congress fails to provide the needed operational support required for a convention it shall fall on the state legislatures to fund the convention.

6b. Congress may create a commission which shall be charged with executing all operational aspects of an Article V Convention.

6c. If, at the end of the 10 working days after first being called into session for the purposes described in these rules (holidays and weekends excluded) the Committee of The Whole Congress or Congress shall, for whatever reason, fail to produce a convention call, count the applications, or in any other manner fail to follow the provisions of these rules including failing to provide appropriations for the convention, the state legislatures shall be empowered to convene the convention under whatever terms they shall establish except that in all circumstances convention delegates (or whatever term the state legislature shall adopt describing those attending the convention as representatives of the states) shall be directly elected by the people.

6d. The office of convention delegate shall be construed in all circumstances to be a federal office and shall be non-partisan. Delegates shall not be bound by any federal or state law which shall (1) pre-determine their actions in a convention or (2) threaten a delegate with felony arrest for failure to obey or follow any instruction issued to the delegate by any member of the state legislature. In all circumstances the term “the states” as used in these rules shall refer to the people of the state and not to the state legislature unless otherwise specified.

6d. On the convening of each Article V Convention, the clerks of both Houses of Congress shall transmit copies of all applications (whether constitutionally discharged or not) which shall be in their custody for use and disposition by the convention. The copies may be transmitted either electronically or physically as the clerks shall determine most proper. The clerks shall set whatever rules they deem appropriate for the care of the applications during their use by the convention and establish rules for the returning of the copies of applications to their custody upon completion of the convention.

#### **Committee of The Whole Congress Used for Other Constitutional Purposes**

7a. The Committee of The Whole Congress may meet in other sessions as the needs of the Constitution shall dictate in order to fulfil and satisfy those constitutional demands. The Committee of The Whole Congress shall be empowered to draft and propose to Congress for its consideration such joint rules as required to address these constitutional demands as they shall occur.