

By: Representative Eubanks

To: Rules

HOUSE CONCURRENT RESOLUTION NO. 48

1 A CONCURRENT RESOLUTION TO PROVIDE FOR THE SELECTION AND  
2 AUTHORITY OF COMMISSIONERS TO ATTEND AN ARTICLE V CONVENTION  
3 CALLED FOR PROPOSING AMENDMENTS TO THE UNITED STATES CONSTITUTION.

4 **SECTION 1.** This resolution applies to a convention for  
5 proposing amendments held under Article V of the U.S.  
6 Constitution.

7 **SECTION 2.** As used in this resolution:

8 (a) "Advisory committee" means a committee consisting  
9 of members selected by each chamber using the process defined in  
10 this resolution to perform the duties defined in this resolution;

11 (b) "Chamber" means either the Senate or the House of  
12 Representatives of the State of Mississippi;

13 (c) "Commissioner" means a person selected by  
14 resolution of the Legislature as provided herein to represent the  
15 State of Mississippi at an Article V Convention for proposing  
16 amendments;



17 (d) "Commissioning Resolution" means the resolution  
18 adopted by the House of Representatives and Senate of the State of  
19 Mississippi which sets forth the names of the appointed  
20 commissioners and their commissions and instructions;

21 (e) "Delegation" means the group of commissioners and  
22 interim commissioners chosen by the Mississippi Legislature to  
23 attend an Article V Convention with the powers and duties defined  
24 in this resolution;

25 (f) "Interim Commissioner" means a person selected by  
26 the advisory committee pursuant to Section 8 to fill a vacancy in  
27 the delegation.

28 **SECTION 3.** At the time of appointment and throughout the  
29 Article V Convention, a commissioner:

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

32 (b) Must be a resident of the State of Mississippi and  
33 have been such for at least five (5) years;

34 (c) Must be at least twenty-five (25) years old;

35 (d) Must be a registered voter in the State of  
36 Mississippi;

37 (e) Must not be registered or required to be registered  
38 as a federal lobbyist at any time within the last five (5) years;

39 (f) Must not currently be a federal employee, other  
40 than a member of the United States armed forces, or contractor,  
41 nor have been such at any time within the last ten (10) years;



42 (g) Must not have held a federal elected or appointed  
43 office at any time within the last ten (10) years;

44 (h) Must not have had any felony convictions for crimes  
45 involving moral turpitude in any jurisdiction, nor any felony  
46 convictions for any crime in any jurisdiction within the last ten  
47 (10) years; and

48 (i) Must not hold a statewide office while performing  
49 the duties of commissioner or interim commissioner. For purposes  
50 of this section, a position as a state legislator is not deemed a  
51 "statewide office".

52 **SECTION 4.** (1) Five (5) commissioners shall be named by a  
53 resolution passed by a majority of those present and voting in a  
54 joint session of the Legislature. All commissioners shall be  
55 appointed by this process.

56 (2) The Legislature shall maintain an odd number of  
57 commissioners in the delegation.

58 (3) A commissioner or interim commissioner may be recalled  
59 and/or removed at any time and for any reason by a joint  
60 resolution of the Legislature or by a majority of those present  
61 and voting in a joint session thereof; and if the Legislature is  
62 not in session, may be recalled and suspended from their duties by  
63 the advisory committee, pending a vote of the Legislature.

64 (4) A commissioner or interim commissioner shall be recalled  
65 and/or suspended by the advisory committee pursuant to a



66 determination under Section 13 of this resolution that he or she  
67 has exceeded the scope of his or her authority.

68 **SECTION 5.** (1) The resolution naming the commissioners  
69 shall include their commission. The commission shall include, but  
70 shall not be limited to, the following components:

71 (a) A commissioner shall not vote for or otherwise  
72 promote any change to the traditional convention rule of decision  
73 on the floor and in the committee of the whole, to-wit, that each  
74 state has one vote.

75 (b) A commissioner shall not vote in favor of any  
76 proposed amendment that would alter the text of the specific  
77 guarantees of individual liberty established by the United States  
78 Constitution, including the original Constitution, the Bill of  
79 Rights, and the following amendments to the Constitution:  
80 Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-Third,  
81 Twenty-Fourth, and Twenty-Sixth.

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

84 (a) If the State of Mississippi was not one of the  
85 two-thirds (2/3) of the states applying for the convention, the  
86 subject matter enumerated in the thirty-four (34) state  
87 applications that triggered the convention; or

88 (b) If the State of Mississippi was one of the  
89 two-thirds (2/3) of the states applying for the convention, the  
90 subject matter in its application; and



91 (c) Any additional instructions from the Legislature,  
92 whether in the commissioning resolution or issued thereafter.

93 (3) The Legislature may provide additional instructions at  
94 any time via subsequent resolution, a copy of which the Clerk of  
95 the House of Representatives shall provide to each commissioner  
96 and to the advisory committee.

97 **SECTION 6.** (1) Each commissioner shall, before exercising  
98 any function of the position, execute the following oath in  
99 writing: "I do solemnly swear (or affirm) that I accept and will  
100 act according to the limits of authority specified in my  
101 commission and any present or subsequent instructions. I  
102 understand that violating this oath may subject me to penalties  
103 provided by law. I understand that I may be recalled or suspended  
104 from my duties by the Legislature or the advisory committee."

105 (2) A commissioner's executed oath shall be filed with the  
106 Secretary of State.

107 **SECTION 7.** After a commissioner's executed oath is filed  
108 with the Secretary of State, the Clerk of the House of  
109 Representatives shall provide to the commissioner an official copy  
110 of the executed oath and the commissioning resolution, which  
111 together shall serve as the commissioner's credentials.

112 **SECTION 8.** Any vacancies shall be filled by the advisory  
113 committee's selection of an interim commissioner until such time  
114 as a vote by a joint session of the Legislature shall select a  
115 permanent replacement.



116           SECTION 9. (1) A commissioner shall receive the same  
117 compensation as a member of the House of Representatives of the  
118 State of Mississippi, prorated for length of time served.

119           (2) A commissioner is entitled to receive the same allowance  
120 for expenses as provided to a member of the House of  
121 Representatives of this state.

122           SECTION 10. Neither a commissioner nor an interim  
123 commissioner shall accept, during his or her time of service, any  
124 gifts or benefits with a combined value of more than Two Hundred  
125 Dollars (\$200.00), other than from a member of his or her family  
126 and of the kind customarily granted by a member of one's family.  
127 The term "gift or benefit" shall be construed liberally to include  
128 current and future loans, lodging, food, offer of prospective  
129 employment, and other actual and prospective benefits. An  
130 employer's decision to continue paying a commissioner's current  
131 salary shall not be construed to be a gift.

132           SECTION 11. (1) The commissioners within the delegation,  
133 including any interim commissioners filling a vacancy, shall  
134 choose from among them a person who shall chair the delegation, a  
135 person who shall cast the state's vote on the convention floor,  
136 and a person to speak to the mass media on behalf of the  
137 delegation. If the delegation so decides, the same person may  
138 exercise any two or all three functions. The delegation may  
139 designate a different commissioner to perform any function at any  
140 time.



141           (2) Each commissioner shall take care to avoid communicating  
142 the impression to any person outside the delegation that the  
143 delegation is divided on a question on which the delegation has  
144 taken a formal position, including, but not limited, to casting a  
145 vote.

146           (3) No commissioner other than the one designated to  
147 communicate with the mass media on behalf of the delegation shall  
148 communicate with the mass media about convention business during  
149 the convention or during any temporary recess or temporary  
150 adjournment.

151           (4) A commissioner violating subsections (2) or (3) of  
152 Section 11 may be suspended or recalled by the advisory committee  
153 or by the Legislature.

154           (5) Subsections (2) and (3) of Section 11 shall not be  
155 construed to prevent a commissioner from presenting his or her  
156 opinions to the convention or debating a matter at the convention  
157 on which his or her delegation has not formally taken a position.

158           (6) The quorum for decision by the delegation—including the  
159 designation of commissioners for particular duties and the  
160 determination of how the state's vote shall be cast—shall be a  
161 majority present and voting at the time the delegation is polled.  
162 No decisions shall be made and no vote shall be cast if less than  
163 a majority of the delegation votes in the poll.



164 (7) The rule of decision for the delegation, a quorum being  
165 present, shall be a majority of those present and voting at the  
166 time of polling.

167 **SECTION 12.** (1) The advisory committee consists of the  
168 following members:

169 (a) A State Senator appointed by the President of the  
170 Senate;

171 (b) A State Representative appointed by the Speaker of  
172 the House; and

173 (c) A member of the Legislature nominated by joint  
174 action of the President of the Senate and the Speaker of the House  
175 of Representatives and approved by the majority of those voting in  
176 each chamber.

177 (2) The advisory committee shall select one of its members  
178 as chair.

179 (3) A commissioner may request that the advisory committee  
180 advise him or her as to whether a prospective action by the  
181 commissioner would violate the commissioning resolution or any  
182 subsequent instructions.

183 (4) The advisory committee:

184 (a) Shall communicate to the commissioner requesting  
185 such advice a determination within twenty-four (24) hours of  
186 receiving the request.

187 (b) May communicate such determination by any  
188 appropriate medium.





189 (c) Shall have authority to hire staff and develop  
190 appropriate procedures and mechanisms for monitoring the  
191 convention, its committees, and subcommittees.

192 **SECTION 13.** (1) Whenever the advisory committee has reason  
193 to believe that a commissioner or interim commissioner has  
194 exceeded the scope of his or her authority, the committee shall  
195 notify the Speaker of the House, the President of the Senate, and  
196 the Attorney General.

197 (2) Upon the request for a determination by the Speaker of  
198 the House, the President of the Senate, or the Attorney General on  
199 whether a commissioner or interim commissioner has exceeded the  
200 scope of his or her authority, the advisory committee shall issue  
201 a determination on whether the commissioner or interim  
202 commissioner did exceed his or her authority. The determination  
203 shall be expeditiously made and immediately communicated to the  
204 person requesting it.

205 (3) Upon determining that a commissioner or interim  
206 commissioner has exceeded the scope of his or her authority  
207 pursuant to subsections (1) or (2) of Section 13, the advisory  
208 committee shall immediately exercise its authority under Section 4  
209 to remove said commissioner, and shall communicate said action and  
210 the reasons therefor to the Speaker of the House, the President of  
211 the Senate, the Attorney General, and the presiding officers of  
212 the convention.

