

CONVENTION FOR PROPOSING AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley M. Daw

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts Title 36, Chapter 28, Convention for Proposing Amendments to the United States Constitution Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Legislature to establish a joint committee;
- ▶ establishes the duties of a joint committee;
- ▶ authorizes the Legislature to:
 - select delegates to a convention for proposing amendments to the United States Constitution;
 - fill a vacancy in a delegation;
 - establish instructions for a delegate;
 - determine the scope of authority of a delegate's commission; and
 - revoke a delegate's commission;
- ▶ prohibits the scope of a commission from exceeding the scope of the Legislature's application for a convention;
- ▶ establishes the oath for a delegate;
- ▶ authorizes the speaker or the president to issue a commission; and
- ▶ establishes the duty of a delegate.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **36-28-101**, Utah Code Annotated 1953

35 **36-28-102**, Utah Code Annotated 1953

36 **36-28-201**, Utah Code Annotated 1953

37 **36-28-202**, Utah Code Annotated 1953

38 **36-28-203**, Utah Code Annotated 1953



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **36-28-101** is enacted to read:

42 **CHAPTER 28. CONVENTION FOR PROPOSING AMENDMENTS TO THE UNITED**
43 **STATES CONSTITUTION ACT**

44 **Part 1. General Provisions**

45 **36-28-101. Title.**

46 This chapter is known as "Convention for Proposing Amendments to the United States
47 Constitution Act."

48 Section 2. Section **36-28-102** is enacted to read:

49 **36-28-102. Definitions.**

50 As used in this chapter:

51 (1) "Application" means an application:

52 (a) by the Legislature for a convention; or

53 (b) relied upon by Congress to call a convention.

54 (2) "Commission" means the documents, other than the instructions, that:

55 (a) empower a delegate to represent the state at a convention; and

56 (b) fix the scope of a delegate's authority.

57 (3) "Convention" means an interstate convention for proposing amendments to the

58 United States Constitution applied for or called in accordance with United States Constitution,

59 Article V.

60 (4) "Delegate" means an individual commissioned to represent the state at a
61 convention.

62 (5) "Delegation" means all of the delegates.

63 (6) (a) "Instructions" means the specific directions, in whatever form, given to
64 delegates in accordance with this chapter.

65 (b) "Instructions" includes directions that are:

66 (i) given contemporaneously with or subsequent to a commission; and

67 (ii) amended by the Legislature or joint committee before or during a convention.

68 (7) "Joint committee" means the committee established by the Legislature in
69 accordance with Section 36-28-201.

70 Section 3. Section **36-28-201** is enacted to read:

71 **Part 2. Joint Committee and Delegates**

72 **36-28-201. Joint committee.**

73 (1) If the Legislature makes an application to Congress, the Legislature shall, by joint
74 resolution, establish a joint committee governed by Joint Rule, Title 3, Joint Conventions and
75 Joint Committees.

76 (2) A joint committee shall meet and communicate with a representative of another
77 state, including a legislative committee established by a legislature of another state to develop:

78 (a) a common commission and instructions for a delegate; and

79 (b) procedures for a convention.

80 (3) A joint committee may:

81 (a) suspend a delegate in accordance with Section 36-38-202;

82 (b) designate a delegate pro tempore in accordance with Section 36-38-202; and

83 (c) provide instructions to the delegate if authorized to do so in the joint resolution
84 establishing the joint committee.

85 Section 4. Section **36-28-202** is enacted to read:

86 **36-28-202. Number, selection, and removal of delegates.**

87 (1) The Legislature shall select the five delegates by majority vote.

88 (2) (a) (i) The Legislature may revoke a delegate's commission by majority vote for any
89 reason.

90 (ii) If the Legislature revokes a delegate's commission, the person who issues the
91 commission under Section 36-28-203 shall inform the convention that the delegate is no longer
92 authorized to serve.

93 (b) (i) If the Legislature is not convened in a session, the joint committee appointed
94 under Section 36-28-201 may suspend a delegate for violating the commission, instructions, or
95 for other good cause.

96 (ii) During a period of suspension, the delegation's vote shall be cast as determined by
97 a majority of the other delegates.

98 (3) (a) The Legislature may fill a vacancy in the delegation which arises because a
99 delegate resigns or the delegate's commission is revoked.

100 (b) If a vacancy occurs when the Legislature is not convened in a session, the joint
101 committee may designate a delegate pro tempore, who shall serve until the Legislature selects a
102 delegate to fill the vacancy.

103 Section 5. Section **36-28-203** is enacted to read:

104 **36-28-203. Instructions, commission, and oath for delegates.**

105 (1) By joint resolution, the Legislature may:

106 (a) provide instructions to the delegation;

107 (b) establish or limit the authority of a delegate in a commission, which authority may
108 not exceed the scope contained in an application by the Legislature; or

109 (c) authorize the joint committee to provide instructions, pursuant to any conditions
110 and limitations as the Legislature may prescribe in the joint resolution.

111 (2) Before receiving a commission, a delegate shall take the following oath: "I do
112 solemnly swear that I accept and will act according to the limits specified in my commission,
113 by any present or subsequent instructions, and by the Convention for Proposing Amendments
114 to the United States Constitution Act. I understand that violating this oath may subject me to
115 having my commission revoked."

116 (3) The speaker of the House of Representatives or president of the Senate or designee
117 of the speaker or president shall issue a commission to each delegate after the delegate takes
118 the oath specified in Subsection (2).

119 (4) (a) A delegate may not:

120 (i) receive a commission before taking the oath in Subsection (2);

121 (ii) vote or otherwise serve at a convention without a valid commission;
122 (iii) exceed the scope of authority granted by a commission; or
123 (iv) violate instructions.
124 (b) A delegate who exceeds the scope of authority granted by the commission or
125 violates instructions is subject to having the delegate's commission revoked under Section
126 36-28-202.

Legislative Review Note
as of 3-5-12 5:37 PM

Office of Legislative Research and General Counsel