

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SCR 324

INTRODUCER: Senator Ingoglia

SUBJECT: Balanced Federal Budget

DATE: January 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Davis</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SCR 324¹ is an application to the United States Congress calling upon Congress to convene an Article V constitutional amendments convention. The convention would be limited to proposing an amendment to the Constitution requiring that, except in a national emergency, the total of all federal appropriations for any fiscal year not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints. This is commonly referred to as a balanced budget amendment.

The concurrent resolution provides that it is to be considered as covering the same subject matter as the presently outstanding balanced budget applications to Congress from other named states. It is to be added or aggregated to those applications for the purpose of attaining the two-thirds number of states, or 34 applications, needed to call a constitutional convention.

The concurrent resolution may not be added to other application totals on any other subject calling for a constitutional convention in an effort to meet the requisite number of applications needed to call a convention. It is to be a continuing application and supersedes all previous applications on the subject.

¹ A Senate Concurrent Resolution is an official legislative document used to ratify an amendment to the U.S. Constitution as well as apply to Congress when requesting a constitutional convention. The U.S. Constitution does not specify the type of document a state must use when making an application to Congress. The Florida Senate, Office of Bill Drafting Services, *Manual for Drafting Legislation*, 139-140 (2009), <https://flsenate.sharepoint.com/sites/Secretary/Publications%20Library/Forms/AllItems.aspx?id=%2Fsites%2FSecretary%2FPublications%20Library%2FManual%20for%20Drafting%20Legislation%20%28Senate%29%2Epdf&parent=%2Fsites%2FSecretary%2FPublications%20Library>.

II. Present Situation:

Amending the U.S. Constitution

Two Methods of Proposing Amendments

Article V of the United States Constitution provides two methods for proposing amendments to the Constitution. The first method authorizes Congress to propose amendments to the states which must first be approved by a two-thirds vote of both houses of Congress.² Amendments approved in this manner do not require the President's signature and are transmitted to each state for ratification.³ Starting with the Bill of Rights in 1789, Congress used this method to submit 33 amendments to the states. Of those 33 proposals, 27 amendments to the Constitution were approved by the states.⁴

The second method, which has never been used, requires Congress to call a convention for proposing amendments when two-thirds of the state legislatures apply to Congress to call an amendments convention.⁵ Currently, 34 states would need to make applications to meet the two-thirds requirement to call an Article V Convention. Because an Article V amendments convention has never been conducted, what might occur procedurally or substantively is unclear.

Two Methods of Ratifying Amendments

Article V further provides that the amendments shall become a part of the Constitution when ratified by the Legislatures of three-fourths of the states or by conventions in three-fourths of the states. This would require ratification by 38 states. Because Article V provides that the amendments become valid when ratified by three-fourths of the legislatures or conventions "as the one or the other Mode of Ratification may be proposed by the Congress," Congress may choose the method of ratification. With the exception of the 21st Amendment, which repealed the 18th Amendment and prohibition, Congress has sent all proposed amendments to the legislatures for ratification.⁶

It has become accepted procedure, although not stated in the Constitution, that Congress may set time limits on the ratification process and specify when an amendment must be ratified by the requisite number of states to become valid. With several amendments, Congress stated that ratification must occur within 7 years after their proposal to become effective. The U.S. Supreme Court, in *Dillon v. Gloss*, concluded that Congress has the authority to determine a reasonable time frame for ratification, even though the Constitution is silent on the matter.⁷

² U.S. CONST. art. V.

³ National Archives, Office of the Federal Register (OFR), *Constitutional Amendment Process*, <https://www.archives.gov/federal-register/constitution>.

⁴ Thomas H. Neale, Congressional Research Service, *The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress* (Updated March 29, 2016), <https://crsreports.congress.gov/product/pdf/R/R42589>.

⁵ U.S. CONST. art. V.

⁶ Neale, *supra*, note 102, at 25.

⁷ *Dillon v. Gloss*, 256 U.S. 368 (1921).

Florida’s Previous Efforts to Require a Federal Balanced Budget

In 1976, Florida adopted Senate Memorial 234 and House Memorial 2801, each calling for a convention for proposing an amendment that would require a balanced federal budget. In 1988, the Legislature adopted Senate Memorial 302, which, rather than call for a constitutional convention, urged Congress to propose an amendment to the U.S. Constitution requiring a federal balanced budget. In 2010, the Legislature passed SCR 10, which called for an amendments convention to propose amendments to provide for a balanced federal budget and limit Congress’ ability to dictate to the states requirements for the expenditure of federal funds. In 2014, the Legislature adopted Senate Memorial 658, which also made application to Congress to call an Article V Convention to propose an amendment requiring a balanced federal budget. In 2023, the Legislature adopted Senate Memorial 176 urging Congress to enact legislation that would require a balanced federal budget. None of these attempts was ultimately successful and no federal balanced budget amendment has been offered to the states for ratification.

Federal and State Balanced Budget Requirements

There is no requirement in the U.S. Constitution that the Federal Government operate under a balanced federal budget. Florida, in contrast, is required to have a balanced budget, and those provisions are set forth in both the State Constitution and statute. Article VII, section 1(d) states that “Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.” Similarly, s. 216.221(1), F.S., provides that “All appropriations shall be maximum appropriations, based upon the collection of sufficient revenues to meet and provide for such appropriations.” The subsection also provides that it is the Governor’s duty, “as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.”

Current Federal Financial Deficit and Debt Information

When discussing the Federal Government’s finances, the terms national “debt” and national “deficit” are often confused and used interchangeably. In order for the Federal Government to pay for a deficit in revenues, it “borrows” money through selling securities in the form of Treasury bonds, bills, and other securities. The national debt then represents the accumulated amount of this borrowing plus the interest that is owed to the entities who have purchased the securities.⁸

National Deficit

As of January 9, 2024, the national deficit is \$380,575,553,417. A deficit results when the Federal Government’s spending is greater than the revenues it collects or when the amount of money going out exceeds the amount of money coming in for a designated period of time. According to data supplied by the U.S. Treasury, in fiscal year 2023, the government spent \$6.13 trillion but only collected revenue of \$4.44 trillion. This resulted in a deficit of almost \$1.70 trillion.⁹

⁸ U.S. Department of the Treasury, *What is the National Deficit?* <https://fiscaldata.treasury.gov/americas-finance-guide/national-deficit/#the-causes-of-deficits-and-surpluses>.

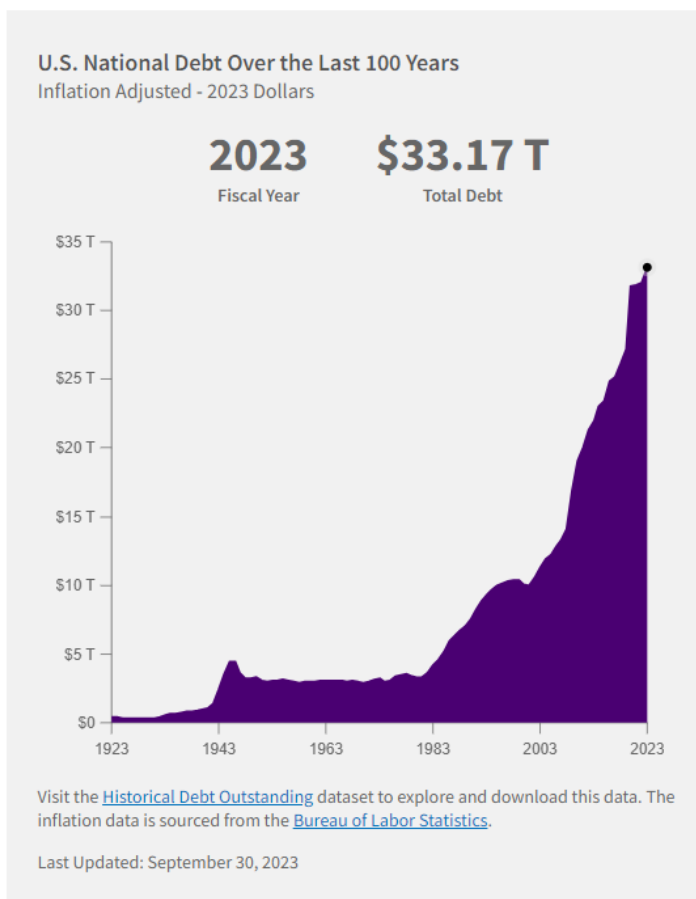
⁹ *Id.*

A budget surplus, in contrast, is the opposite of a budget deficit. A surplus occurs when the government spends less money than it collects. According to U.S. Treasury information, the government has recorded a fiscal budget surplus five times during the last 50 years. The most recent surplus occurred in 2001.¹⁰

National Debt

As of January 9, 2024, the national debt is \$34,012,198,872,291. The national debt is described as “the amount of money the Federal Government has borrowed to cover the outstanding balance of expenses incurred over time.”¹¹ Stated slightly differently, it is a measurement of what the United States owes to its creditors.¹²

The Treasury Department posts this visual¹³ on its webpage to demonstrate an historical perspective of the nation’s debt.



¹⁰ *Id.*

¹¹ Treasury Department, Fiscal Data.treasury.gov *What is the National Debt?* <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/>.

¹² Megan Henney, Fox Business, *US National Debt Tops \$34T for First Time in History*, <https://www.foxbusiness.com/politics/us-national-debt-tops-34t-first-time-history>.

¹³ Treasury Department, Fiscal Data.treasury.gov, *What is the National Debt?* <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/>.

Applications Made By Other States for an Amendments Convention

The Clerk of the United States House of Representatives maintains a publicly available web page entitled “Selected Memorials.”¹⁴ The site states that “each memorial purports to be an application of the legislature calling for a convention for proposing amendments to the Constitution” or the rescission of a previous application. The site then, dating back to 1960, lists 192 results by year, state, and designation, as to whether the correspondence is an application or a rescission.

While some applications singularly request a balanced budget amendment, some applications request an amendment imposing fiscal restraints on the Federal Government, and others require approval by a majority of state legislatures before the Federal Government may increase the federal debt. According to the website, at least 27 states have submitted an application calling for an Article V amendments convention to require a federal balanced budget even though slightly differing language is used.

The State’s Article V Constitutional Convention Act

This state adopted the “Article V Constitutional Convention Act” in 2014.¹⁵ The act establishes guidelines for the qualification, appointment, recall, and function of delegates to an Article V constitutional convention.

III. Effect of Proposed Changes:

The Senate concurrent resolution is an application to Congress calling upon Congress to convene an Article V constitutional amendments convention. The convention would be limited to proposing an amendment to the Constitution requiring that, except in a national emergency, the total of all federal appropriations for any fiscal year not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints. This is commonly referred to as a balanced budget amendment.

The concurrent resolution provides that it is to be considered as covering the same subject matter as the presently outstanding balanced budget applications to Congress from 26 other named states. It is to be added, or aggregated, to those applications for the purpose of attaining the two-thirds number of states, or 34 applications, needed to call a constitutional convention.

The concurrent resolution may not be added to other application totals on any other subject calling for a constitutional convention in an effort to meet the requisite number of applications needed to call a convention. It is to be a continuing application until the legislatures of at least two-thirds of the states have made application on this same subject.

¹⁴ Clerk, United States House of Representatives, *Selected Memorials*, [Office of the Clerk, U.S. House of Representatives - Selected Memorials](#).

¹⁵ Sections 11.93–11.9352, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If an Article V amendments convention is called, the state might be responsible for the costs of sending delegates to the convention. Whether Congress or the state would be responsible for related expenses for the convention is not a settled issue at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Senate Rules require that concurrent resolutions be read by title on two separate days before a voice vote is taken on adoption unless the matter is decided otherwise by a two-thirds vote of those Senators present.¹⁶

¹⁶ Florida Senate Rule 4.13 (adopted Nov. 22, 2022).

Because an Article V amendments convention has never been conducted, what might occur procedurally or substantively is unclear.

Diverse scholars have raised, but not necessarily answered, many questions regarding the nature of an amendments convention. Some of those issues involve, in part:

- To what extent Congress would establish the framework for the convention;
- Whether the scope of the convention would be limited in its focus or may be expanded to include other topics;
- Whether the states have any constitutional authority over the convention once it is convened;
- Whether it is the role of Congress to summon, convene, define, and administer the convention; or
- How convention delegates will be apportioned among the states and whether it might occur in a manner similar to the Electoral College.¹⁷

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁷ Thomas H. Neale, Congressional Research Service, *The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress* (Updated March 29, 2016), <https://crsreports.congress.gov/product/pdf/R/R42589>.