



2023 South Dakota Legislature

House Joint Resolution 5005

Introduced by: **Representative Aylward**

1 **A JOINT RESOLUTION, Applying for a convention of states under Article V of the**
 2 **Constitution of the United States, to impose fiscal restraints on the federal**
 3 **government, to limit the power and jurisdiction of the federal government,**
 4 **and to limit the terms of office for federal officials and members of Congress.**

5 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
 6 DAKOTA, THE SENATE CONCURRING THEREIN:

7 **Section 1.** WHEREAS, the framers of the Constitution of the United States empowered state
 8 legislators to be the guardians of liberty against future abuses of power by the federal
 9 government; and

10 **Section 2.** WHEREAS, the federal government, through improper and imprudent spending,
 11 has created a crushing national debt which now exceeds the national gross domestic product;
 12 and

13 **Section 3.** WHEREAS, the federal government has overstepped the limits imposed by the
 14 Constitution of the United States and has invaded the legitimate roles of the state through
 15 the manipulative process of federal mandates, many of which are unfunded; and

16 **Section 4.** WHEREAS, the federal government has ceased to operate under a proper
 17 interpretation of the Constitution of the United States; and

18 **Section 5.** WHEREAS, it is the solemn duty of the states to protect the liberty of our people,
 19 particularly for the generations to come, by proposing amendments to the Constitution of the
 20 United States through a convention of the states under Article V for the purpose of restraining
 21 these and related abuses of power;

22 **Section 6.** NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the
 23 Ninety-Eighth Legislature of the State of South Dakota, the Senate concurring therein, that
 24 the Legislature of the State of South Dakota hereby applies to Congress, under the provisions

1 of Article V of the Constitution of the United States, for the calling of a convention of the
2 states limited to proposing amendments to the Constitution of the United States that impose
3 fiscal restraints on the federal government, limit the power and jurisdiction of the federal
4 government, and limit the terms of office for federal officials and members of Congress;

5 **Section 7.** BE IT FURTHER RESOLVED, that the secretary of state is hereby directed to
6 transmit copies of this application to the president and secretary of the United States Senate;
7 the speaker and clerk of the United States House of Representatives; the members of the
8 United States Senate and House of Representatives from this state; and the presiding officers
9 of each of the legislative houses in the several states to request their cooperation; and

10 **Section 8.** BE IT FURTHER RESOLVED, that this application constitutes a continuing
11 application in accordance with Article V of the Constitution of the United States until the
12 legislatures of at least two-thirds of the several states have made applications on the same
13 subject; and

14 **Section 9.** BE IT FURTHER RESOLVED, that the Legislature adopts this application expressly
15 subject to the following reservations, understandings, and declarations:

16 (1) An application to the Congress of the United States to call a convention of the
17 states for the purpose of proposing amendments to the Constitution of the United
18 States pursuant to Article V of the Constitution of the United States confers no
19 power to Congress other than the power to call the convention. The power of
20 Congress to exercise this ministerial duty consists solely of the authority to name
21 a reasonable time and place for the initial meeting of a convention;

22 (2) Congress shall perform its ministerial duty of calling a convention of the states only
23 upon the receipt of applications for a convention for the substantially same purpose
24 as this application from two-thirds of the legislatures of the several states;

25 (3) Congress does not have the power or authority to determine any rules for the
26 governing of a convention for proposing amendments called pursuant to Article V
27 of the Constitution of the United States. Congress does not have the power to set
28 the number of delegates to be sent by any state to the convention, nor does it
29 have the power to name delegates to the convention. The power to name delegates
30 remains exclusively within the authority of the legislatures of the several states;

31 (4) By definition, a convention of the states called for the purpose of proposing
32 amendments to the Constitution of the United States pursuant to Article V means
33 that states shall vote on the basis of one state, one vote;

- 1 (5) A convention for the purpose of proposing amendments convened pursuant to this
2 application must be limited to consideration of the topics specified herein and no
3 other. This application is made with the express understanding that an amendment
4 that in any way seeks to amend, modify, or repeal any provision of the Bill of Rights
5 is not authorized for consideration at this convention. This application is void ab
6 initio if ever used to consider any change to any provision of the Bill of Rights;
7 (6) Pursuant to Article V of the Constitution of the United States, Congress may
8 determine whether proposed amendments must be ratified by the legislatures of
9 the several states or by special state ratification conventions. The Legislature
10 recommends Congress select ratification by the legislatures of the several states;
11 and
12 (7) The Legislature may provide further instructions to the state's delegates and may
13 recall its delegates at any time for a breach of a duty or a violation of the
14 instructions provided.