



2026 South Dakota Legislature

Senate Joint Resolution 502

Introduced by: **Senator Rohl**

1 **A JOINT RESOLUTION** applying to the United States Congress under Article V of the
2 **United States Constitution to call for a convention proposing an amendment**
3 **to the constitution fixing the number of justices of the United States Supreme**
4 **Court at one chief justice and eight associate justices.**

5 **Section 1.** WHEREAS, the United States Constitution does not set the number of justices that
6 comprise the United States Supreme Court, but leaves it to Congress to ordain and establish
7 both the Supreme Court and all inferior federal Courts; and

8 **Section 2.** WHEREAS, the number of Supreme Court justices has been used in the past as a
9 political tool, with the number of justices being increased or decreased in order to allow or
10 prevent presidents from being able to appoint justices to the court; and

11 **Section 3.** WHEREAS, in the Judiciary Act of 1789, the First Congress set the number of
12 Supreme Court justices at six, with one chief justice and five associate justices; and

13 **Section 4.** WHEREAS, in the wake of the election of 1800, Congress passed the Judiciary Act
14 of 1801, and reduced the number of Supreme Court justices from six to five, effective upon
15 the next vacancy in the Court, in order to deprive the President-elect, Thomas Jefferson, of
16 the ability to fill the vacancy; and

17 **Section 5.** WHEREAS, Congress repealed the Judiciary Act of 1801 in January 1802, restoring
18 the number of Supreme Court justices to six; and

19 **Section 6.** WHEREAS, in response to the increasing workload of the court, Congress increased
20 the number of justices from six to seven in 1807, from seven to nine in 1837, and from nine
21 to ten in 1863; and

22 **Section 7.** WHEREAS, in 1866, Congress again reduced the number of justices from ten to
23 seven, effective upon the seats becoming vacant, to deprive President Andrew Johnson of the
24 opportunity to fill the vacancies; and

1 **Section 8.** WHEREAS, in 1869, under President Ulysses Grant, Congress increased the
2 number of justices from seven to nine; and

3 **Section 9.** WHEREAS, the number of Supreme Court justices has remained at nine since
4 1869, despite the attempt made by President Franklin Roosevelt in 1937 to increase the
5 number of justices on the court and reshape the federal judiciary, in response to what
6 Roosevelt perceived as unfavorable rulings made by the court on policies enacted in response
7 to the Great Depression;

8 **Section 10.** NOW, THEREFORE, BE IT RESOLVED, by the Legislature of the State of South
9 Dakota, that an application is hereby made to the Congress of the United States, as provided
10 by Article V of the United States Constitution, to call a convention solely for the purpose of
11 proposing an amendment to the United States Constitution fixing the number of justices of
12 the United States Supreme Court at one chief justice and eight associate justices; and

13 **Section 11.** BE IT FURTHER RESOLVED, that the secretary of state shall transmit copies of
14 this application to the president and secretary of the United States Senate; to the speaker
15 and clerk of the United States House of Representatives; to the chairman of the Judiciary
16 Committee of the United States House of Representatives and the chairman of the Judiciary
17 Committee of the United States Senate; and to the presiding officers of each legislative house
18 in the several states, requesting their cooperation; and

19 **Section 12.** BE IT FURTHER RESOLVED, that this application constitutes a continuing
20 application in accordance with Article V of the United States Constitution, until the legislatures
21 of two-thirds of the several states have made applications to Congress calling for a convention
22 to fix the number of justices of the United States Supreme Court at one chief justice and eight
23 associate justices; and

24 **Section 13.** BE IT FURTHER RESOLVED, that this application must be aggregated with the
25 applications of the other states for the same purpose, provided that this application is not
26 aggregated with any other application that seeks a convention to address any other issue.