



2026 South Dakota Legislature

House Bill 1196

Introduced by: **Representative** Heinemann

1 **An Act to provide for the participation of delegates from this state in an Article V**
 2 **convention, and to provide a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 2-15-16 be AMENDED:**

5 **2-15-16.** Terms used in §§ 2-15-17 to 2-15-21, inclusive, mean:

6 (1) ~~"Article V convention," convention for proposing amendments as expressly~~
 7 ~~provided in Article V of the United States of America Constitution; and~~

8 (2) ~~"Article V application," a joint resolution passed by the State Legislature of South~~
 9 ~~Dakota on the same subject or containing the same proposed amendment text as~~
 10 ~~thirty-three other sovereign two-thirds of the states requiring applying to Congress~~
 11 ~~to call an Article V convention by setting the time and place for the convention;; and~~

12 (2) "Article V convention," a convention for proposing amendments to the United
 13 States Constitution, as provided in U.S. Const., Art. V;

14 (3) ~~"Delegate" or "alternate," any person~~ "Delegate," an individual selected by the
 15 ~~State Legislature of South Dakota or any other method provided by law to~~
 16 ~~represent the State of South Dakota this state at an Article V convention; and~~

17 (4) ~~"Legislative instructions," instructions given by the State Legislature to delegates~~
 18 ~~and alternates a delegate before and during an Article V convention; and~~

19 (5) ~~"Unauthorized amendment," any proposed an amendment to the United States~~
 20 ~~Constitution that is raised for consideration at an Article V convention and is outside~~
 21 ~~the subject matter or permitted text.~~

22 **Section 2. That § 2-15-17 be AMENDED:**

23 **2-15-17.** ~~No A delegate from South Dakota this state to an Article V convention~~
 24 ~~has the authority to may not vote to allow consideration of or vote to approve consider or~~

1 propose an unauthorized amendment for ratification to the United States ~~of America~~
2 Constitution.

3 Any delegate casting a vote to allow consideration or approval of an unauthorized
4 amendment ~~shall~~ must be immediately recalled ~~by the secretary of state~~ and replaced by
5 an alternate chosen by the Executive Board of the Legislative Research Council.

6 **Section 3. That § 2-15-18 be AMENDED:**

7 **2-15-18.** ~~Every candidate for delegate or alternate from South Dakota to the~~ Each
8 individual appointed to be a delegate from this state to an Article V convention shall take
9 the following oath:

10 "I do solemnly swear or affirm that I will, to the best of my abilities, ~~I will~~, ~~as a~~
11 ~~delegate or alternate to an Article V convention~~, uphold the Constitution and laws of the
12 United States of America and the State of South Dakota. I accept and will act according
13 to the limits of the authority specified in my commission and any present or subsequent
14 instructions that I receive from the Legislature or the Executive Board of the Legislative
15 Research Council. I will not vote to allow consideration of or to approve consider or
16 propose any unauthorized amendment proposed raised for ratification to the United States
17 ~~of America~~ Constitution. I understand that violating this oath may subject me to any
18 penalties provided by law, and that I may be recalled from my duties by the Legislature
19 or the Executive Board of the Legislative Research Council."

20 Upon execution of the oath or affirmation, the oath or affirmation must be filed
21 with the secretary of state.

22 **Section 4. That § 2-15-19 be AMENDED:**

23 **2-15-19.** Upon receipt of a delegate's sworn oath, the secretary of state shall
24 provide to the delegate an official copy of the executed oath, and the delegate's
25 commissioning resolution.

26 The secretary of state shall certify in writing to the Article V convention the
27 selection of delegates ~~and alternates~~, the recall and replacement of any delegate ~~or~~
28 ~~alternate~~, and the nullification of an unauthorized ~~votes~~ vote cast by ~~any~~ a delegate of
29 ~~South Dakota~~ this state.

30 **Section 5. That § 2-15-21 be AMENDED:**

1 ~~2-15-21. Nothing in §§ 2-15-16 to 2-15-20, inclusive, this authorizes the~~ The
 2 State of South Dakota ~~to may not~~ participate in any Article V convention ~~in which each of~~
 3 ~~the states does not possess one vote equal to the other states~~ if the structure of the
 4 convention does not require states to vote on the basis of one state, one vote.

5 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

6 At the time an individual is appointed to be a delegate to an Article V convention,
 7 the individual appointed must be at least twenty-five years old, must be registered as a
 8 voter of this state pursuant to chapter 12-4, and must have been a resident of this state
 9 for at least five years.

10 An individual may not be appointed a delegate to an Article V convention if the
 11 individual:

12 (1) Has been registered, or has been required to register, as a federal lobbyist within
 13 the five years immediately prior to being appointed a delegate;

14 (2) Has been a federal employee or contractor at any time within the ten years
 15 immediately prior to being appointed a delegate;

16 (3) Has held an elected or appointed federal office at any time within the ten years
 17 immediately prior to being appointed a delegate;

18 (4) Has been convicted of a crime involving moral turpitude, as defined in § 22-1-2, in
 19 any jurisdiction;

20 (6) Has been convicted of a felony in any jurisdiction within the ten years immediately
 21 prior to being appointed a delegate; or

22 (7) Holds a statewide office.

23 For the purposes of this section, "federal employee" does not include an individual
 24 enlisted as a member of the armed forces, as defined in § 36-1-2.

25 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

26 The Legislature shall, by joint resolution, appoint five delegates to participate in an
 27 Article V convention. The Legislature may, by joint resolution, recall a delegate at any
 28 time for any reason. If the Legislature is not in session, the Executive Board of the
 29 Legislative Research Council may recall a delegate, as provided in section 15 of this Act.

30 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

31 The joint resolution appointing a delegate must include an instruction stating that:

- 1 (1) The delegate may not vote for or otherwise promote any change to the convention
 2 rule requiring states to vote on the basis of one state, one vote;
 3 (2) The delegate may not vote in favor of any amendment raised for consideration that
 4 would alter the text of any guarantee of individual liberty established in:
 5 (a) The United States Constitution;
 6 (b) U.S. Const., amend. I to X, inclusive; and
 7 (c) U.S. Const., amend. XIII, XIV, XV, XIX, XXI, XXIII, XXIV, and XXVI; and
 8 (3) The delegate may not vote in favor of any amendment raised for consideration if
 9 the subject is not enumerated in the applications of the two-thirds of the states
 10 that caused Congress to call the Article V convention.
 11 The Legislature may, by joint resolution, provide additional instruction to the
 12 delegates from this state.

13 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

- 14 The office of delegate becomes vacant if the delegate:
 15 (1) Dies;
 16 (2) Resigns;
 17 (3) Is removed from office;
 18 (4) Fails to qualify as provided by this chapter;
 19 (5) Ceases to be a resident of this state;
 20 (6) Is convicted of a crime involving moral turpitude;
 21 (7) Is convicted of a felony;
 22 (8) Assumes federal or statewide office;
 23 (9) Registers as a federal lobbyist; or
 24 (10) Becomes employed or contracted by the federal government.

25 The Executive Board of the Legislative Research Council shall fill the vacancy with
 26 an interim delegate until the Legislature appoints a permanent replacement.

27 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

28 The salary of each delegate to an Article V convention is the same as the salary of
 29 each member of the Legislature, as defined in § 2-4-2, prorated for length of time served.
 30 A delegate shall receive the same allowance for expenses as provided to a member of the
 31 Legislature, in accordance with § 2-4-2.

32 **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

1 An individual serving as a delegate to an Article V convention may not accept any
2 gifts or benefits with a combined value of more than two hundred dollars, other than a
3 gift customarily granted by a member of the individual's family, while the individual is
4 serving as a delegate to an Article V convention.

5 For the purposes of this section, "gifts or benefits" include current or future loans,
6 lodging, food, or offers of prospective employment.

7 If the employer of an individual serving as a delegate decides to continue paying
8 the individual's salary while the individual is serving as a delegate, the salary is not a gift
9 or benefit.

10 **Section 12. That a NEW SECTION be added:**

11 The delegates shall choose one from among themselves to:

- 12 (1) Serve as the chair of the delegation;
13 (2) Cast the delegation's vote on the convention floor; and
14 (3) Speak to the media on behalf of the delegation.

15 The delegation may choose the same delegate to exercise any or all of the functions
16 required by this section.

17 The delegation shall receive staff assistance from the Legislative Research Council.

18 **Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

19 A majority of the delegation constitutes a quorum for any decision taken by the
20 delegation. Any decision of the delegation must be approved by an affirmative vote of a
21 majority of the members of the delegation.

22 **Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

23 A delegate may request that the Executive Board of the Legislative Research
24 Council advise the delegate as to whether a prospective action by the delegate would
25 violate the delegate's oath of office or any subsequent instructions. The board shall
26 communicate to a delegate requesting advice within twenty-four hours of receiving the
27 request. The board may communicate to the delegate using any appropriate method of
28 communication.

29 The director of the Legislative Research Council shall assign Legislative Research
30 Council staff to monitor the convention, and any committees or subcommittees appointed
31 to facilitate the work of the convention.

1 **Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

2 If the Executive Board of the Legislative Research Council has reason to believe
3 that a delegate has exceeded the scope of the delegate's authority, the board must
4 investigate the delegate's conduct and must issue a determination as to whether the
5 delegate has exceeded the delegate's authority. If the board determines that the delegate
6 has exceeded the scope of the delegate's authority, the board must immediately recall the
7 delegate. The board shall communicate the reasons for the recall to the secretary of state
8 and the presiding officer of the Article V convention.

9 **Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 2:**

10 An individual may not knowingly bribe, threaten, intimidate, or obstruct, or attempt
11 to bribe, threaten, intimidate, or obstruct a delegate in the performance of the delegate's
12 duties.

13 A violation of this section is a Class 6 felony.

14 **Section 17.** Pursuant to § 2-16-9, the code counsel of the Legislative Research Council shall
15 transfer §§ 2-15-16 to 2-15-21, inclusive, to chapter 2-15A as follows: § 2-15-16 to § 2-15A-
16 1; § 2-15-17 to § 2-15A-5; § 2-15-18 to § 2-15A-6; § 2-15-19 to § 2-15A-7; § 2-15-20 to
17 § 2-15A-15; and § 2-15-21 to § 2-15A-17.

18 **Section 18.** Pursuant to § 2-16-9, the Code Commission and the code counsel of the
19 Legislative Research Council shall correct and integrate all cross-references from §§ 2-15-16
20 to 2-15-21, inclusive, that have been transferred pursuant to this Act.