

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

733B0760

SENATE JOINT RESOLUTION NO. 4

Introduced by: Senator Greenfield (Brock) and Representative Johnson (David)

1 A JOINT RESOLUTION, Rescinding House Joint Resolution 1001, adopted by the Ninetieth
2 Legislature of the State of South Dakota.

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

5 WHEREAS, the Ninetieth Legislature of the State of South Dakota, in February 2015,
6 adopted House Joint Resolution 1001, making formal application to Congress to call an Article
7 V constitutional convention, or convention of the states, for the sole purpose of altering the
8 Constitution of the United States of America; and

9 WHEREAS, Article V of the Constitution of the United States reserves exclusively to
10 Congress the federal authority to call a constitutional convention, or convention of the states;
11 and

12 WHEREAS, the Supreme Court of the United States ruled that Congress alone reserves the
13 power to "deal with subsidiary matters of detail . . . and Article V is no exception to the rule,"
14 including matters regarding convention delegates and constitutional conventions called by
15 Congress under Article V; and



1 WHEREAS, Article V of the Constitution of the United States declares the "Mode of
2 Ratification" of amendments arising from a constitutional convention, or convention of the
3 states, shall be determined not by the states or by the delegates, but by Congress; and

4 WHEREAS, the States have no authority to impose any penalty, sanction, or limitation on
5 convention delegates, for such delegates represent the "People," and the sovereign ". . . Right
6 of the People to alter or to abolish [their Government], and to institute new Government . . . ;"
7 and

8 WHEREAS, the States have no constitutional authority to establish, or to predetermine, the
9 rules of order or operational aspects of a constitutional convention, or convention of the states,
10 called by Congress under Article V of the Constitution of the United States; and

11 WHEREAS, James Madison wrote in The Federalist No. 43 that Article V of the
12 Constitution of the United States should be utilized only for repairing "discovered
13 [constitutional] faults" or for "amendment of [constitutional] errors;" and

14 WHEREAS, nothing in Article V of the Constitution of the United States provides for, nor
15 can any state application guarantee, equal suffrage or equal franchise, to each state at the
16 constitutional convention, or convention of the states; and

17 WHEREAS, nothing in Article V of the Constitution of the United States limits the
18 constitutional convention, or convention of the states, to any specific topic or to any specific list
19 of topics; and

20 WHEREAS, nothing in Article V of the Constitution of the United States guarantees, nor
21 can any state application guarantee, state legislatures the right to a ratification vote on
22 amendments arising from a constitutional convention, or convention of the states; and

23 WHEREAS, the South Dakota Legislature joins the legislatures of the states of Delaware,
24 Idaho, Maryland, Nevada, New Mexico, Oregon, South Carolina, and Virginia, who, having

1 recently rescinded their Article V balanced budget applications, no longer support a
2 Congressional call for a constitutional convention, or convention of the states:

3 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Fourth Legislature
4 of the State of South Dakota, the House of Representatives concurring therein, that House Joint
5 Resolution 1001, adopted in the Ninetieth Session, 2015, of the Legislature of the State of South
6 Dakota, be rescinded; and

7 BE IT FURTHER RESOLVED, that the secretary of state transmit copies of this resolution
8 to the President of the United States, the Speaker and Clerk of the United States House of
9 Representatives, the President and Secretary of the United States Senate, the members of the
10 South Dakota congressional delegation, and the Governor of the State of South Dakota, attesting
11 the adoption of this resolution by the Legislature of the State of South Dakota.