

State of South Dakota

NINETY-THIRD SESSION LEGISLATIVE ASSEMBLY, 2018

525Z0656

SENATE JOINT RESOLUTION NO. 3

Introduced by: Senators Curd, Bolin, Jensen (Phil), Langer, Maher, Netherton, Otten (Ernie), Stalzer, Wiik, and Youngberg and Representatives DiSanto, Beal, Haugaard, Heinemann, Jensen (Kevin), Latterell, Livermont, Marty, May, Mickelson, Peterson (Kent), Pischke, and Qualm

1 A JOINT RESOLUTION, To apply for a convention of states under Article V of the
2 Constitution of the United States to impose fiscal restraints on the federal government and
3 limit the power and jurisdiction of the federal government.

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

6 WHEREAS, the founders of the Constitution empowered state legislators to be guardians
7 of liberty against the future abuses of power by the federal government; and

8 WHEREAS, the federal government has created a crushing national debt through improper
9 and imprudent spending; and

10 WHEREAS, the federal government has invaded the legitimate roles of the state through the
11 manipulative process of federal mandates, most of which are unfunded to a great extent; and

12 WHEREAS, the federal government has ceased to live under a proper interpretation of the
13 Constitution of the United States; and

14 WHEREAS, it is the solemn duty of the states to protect the liberty of our people,



1 particularly for the generations to come, by proposing amendments to the Constitution of the
2 United States through a convention of the states under Article V for the purpose of restraining
3 these and related abuses of power:

4 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-third Legislature of
5 the State of South Dakota, the House of Representatives concurring therein, that the Legislature
6 of the State of South Dakota hereby applies to Congress, under the provisions of Article V of
7 the Constitution of the United States, for the calling of a convention of the states limited to
8 proposing amendments to the Constitution of the United States that impose fiscal restraints on
9 the federal government, limit the power and jurisdiction of the federal government, and limit
10 the terms of office for federal officials and for members of Congress; and

11 BE IT FURTHER RESOLVED, that the secretary of state is hereby directed to transmit
12 copies of this application to the President and Secretary of the United States Senate and to the
13 Speaker and Clerk of the United States House of Representatives; and copies to the members
14 of the United States Senate and House of Representatives from this state; and also to transmit
15 copies to the presiding officers of each of the legislative houses in the several states, requesting
16 their cooperation; and

17 BE IT FURTHER RESOLVED, that this application constitutes a continuing application
18 in accordance with Article V of the Constitution of the United States until the legislatures of at
19 least two-thirds of the several states have made applications on the same subject; and

20 BE IT FURTHER RESOLVED, that the Legislature adopts this application expressly
21 subject to the following reservations, understandings, and declarations:

- 22 (1) An application to the Congress of the United States to call an amendment convention
23 of the states pursuant to Article V of the United States Constitution confers no power
24 to Congress other than the power to call the convention. The power of Congress to

1 exercise this ministerial duty consists solely of the authority to name a reasonable
2 time and place for the initial meeting of a convention;

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

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

12 (4) By definition, an amendment convention of the states means that states shall vote on
13 the basis of one state, one vote;

14 (5) A convention for proposing amendments convened pursuant to this application must
15 be limited to consideration of the topics specified herein and no other. This
16 application is made with the express understanding that an amendment that in any
17 way seeks to amend, modify, or repeal any provision of the Bill of Rights is not
18 authorized for consideration at any stage. This application is void ab initio if ever
19 used at any stage to consider any change to any provision of the Bill of Rights;

20 (6) Pursuant to Article V of the United States Constitution, Congress may determine
21 whether proposed amendments must be ratified by the legislatures of the several
22 states or by special state ratification conventions. The Legislature recommends
23 Congress select ratification by the legislatures of the several states; and

24 (7) The Legislature may provide further instructions to the state's delegates and may

- 1 recall its delegates at any time for a breach of a duty or a violation of the instructions
- 2 provided.