

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

398B0266

## HOUSE JOINT RESOLUTION NO. 1005

Introduced by: Representatives Steele, Anderson, Barthel, Beal, Deutsch, Gross, Hansen, Haugaard, Jensen (Kevin), Latterell, Mills, Otten (Herman), Perry, Peterson (Kent), Peterson (Sue), Pischke, Post, Qualm, Rasmussen, Schoenfish, Willadsen, and Zikmund and Senators Curd, Blare, Bolin, DiSanto, Jensen (Phil), Kolbeck, Langer, Maher, Monroe, Novstrup, Otten (Ernie), Stalzer, Steinhauer, Sutton, Wiik, and Youngberg

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, to  
3 limit the power and jurisdiction of the federal government, and to limit the terms of office  
4 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 WHEREAS, the founders of the Constitution empowered state legislators to be guardians  
8 of liberty against the future abuses of power by the federal government; and

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

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

13 WHEREAS, the federal government has ceased to live under a proper interpretation of the



1 Constitution of the United States; and

2 WHEREAS, it is the solemn duty of the states to protect the liberty of our people,  
3 particularly for the generations to come, by proposing amendments to the Constitution of the  
4 United States through a convention of the states under Article V for the purpose of restraining  
5 these and related abuses of power:

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

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

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

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

24 (1) An application to the Congress of the United States to call an amendment convention

1 of the states pursuant to Article V of the United States Constitution confers no power  
2 to Congress other than the power to call the convention. The power of Congress to  
3 exercise this ministerial duty consists solely of the authority to name a reasonable  
4 time and place for the initial meeting of a convention;

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

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

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

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

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

1 Congress select ratification by the legislatures of the several states; and  
2 (7) The Legislature may provide further instructions to the state's delegates and may  
3 recall its delegates at any time for a breach of a duty or a violation of the instructions  
4 provided.