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

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

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

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

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

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

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

and

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

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

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

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

WHEREAS, nothing in Article V of the Constitution of the United States guarantees, nor can any state application guarantee, state legislatures the right to a ratification vote on amendments arising from a constitutional convention, or convention of the states; and
WHEREAS, the South Dakota Legislature joins the legislatures of the states of Delaware, Idaho, Maryland, Nevada, New Mexico, Oregon, South Carolina, and Virginia, who, having recently rescinded their Article V balanced budget applications, no longer support a Congressional call for a constitutional convention, or convention of the states:

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

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