

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

526Z0116

HOUSE JOINT RESOLUTION NO. 1003

Introduced by: Representatives Johnson, Ahlers, Campbell, Clark, Conzet, Dennert, Diedrich, Duvall, Goodwin, Greenfield (Lana), Holmes, Johns, Kaiser, Lake, Lesmeister, McCleerey, McPherson, Rasmussen, Ring, Rozum, Schaefer, Smith, Turbiville, and York and Senators Greenfield (Brock), Cronin, Ewing, Haverly, Nesiba, Partridge, Rusch, Russell, and Solano

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 HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
4 DAKOTA, THE SENATE 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,"



1 including matters regarding convention delegates and constitutional conventions called by
2 Congress under Article V; and

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

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

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

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

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

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

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

1 WHEREAS, the South Dakota Legislature joins the legislatures of the states of Delaware,
2 Idaho, Maryland, Nevada, New Mexico, Oregon, South Carolina, and Virginia, who, having
3 recently rescinded their Article V balanced budget applications, no longer support a
4 Congressional call for a constitutional convention, or convention of the states:

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

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