

SENATE BILL No. 431

By Committee on Federal and State Affairs

3-10

1 AN ACT concerning a convention under article V of the constitution of the
2 United States; prescribing appointment and qualifications of delegates;
3 duties and responsibilities thereof; instruction for delegates by the
4 legislature; creating a joint committee of correspondence.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. The provisions of sections 1 through 6, and amendments
8 thereto, shall apply whenever an article V convention is called.

9 Sec. 2. As used in sections 1 through 6, and amendments thereto:

10 (a) "Alternate delegate" means an individual appointed as provided
11 by Kansas law as an alternate delegate to act in place of an absent delegate
12 of the state of Kansas at an article V convention;

13 (b) "article V application" means a concurrent resolution adopted by
14 both houses of the legislature that calls for an article V convention;

15 (c) "article V convention" means a convention for proposing
16 amendments to the constitution of the United States called for by the states
17 under article V of the constitution of the United States;

18 (d) "delegate" means an individual appointed as provided by Kansas
19 law to represent the state of Kansas at an article V convention; and

20 (e) "unauthorized amendment" means a proposed amendment to the
21 constitution of the United States that is outside of the scope of the subject
22 matter of the article V application or the call of the article V convention.

23 Sec. 3. (a) Whenever an article V convention is called, the speaker of
24 the house of representatives, the president of the senate and the governor
25 shall appoint the number of delegates allocated to represent Kansas and an
26 equal number of alternate delegates. Unless established otherwise by the
27 rules and procedures of an article V convention, five delegates and five
28 alternates delegates shall be appointed to represent Kansas. The
29 appointments shall be made proportionally by the speaker of the house of
30 representatives, the president of the senate and the governor as follows:

31 (1) The speaker of the house of representatives shall appoint two
32 members of the house of representatives as delegates and two members of
33 the house of representatives as alternate delegates;

34 (2) the president of the senate shall appoint two members of the
35 senate as delegates and two members of the senate as alternate delegates;
36 and

1 (3) the governor shall appoint one member from either the house of
2 representatives or the senate as a delegate and one member from either the
3 house of representatives or the senate as an alternate delegate.

4 (b) The term for each delegate and alternate delegate appointed
5 begins with the call of the article V convention and ends on the day of the
6 final adjournment of the convention, unless recalled.

7 (c) (1) The speaker of the house of representatives, president of the
8 senate or governor may recall any delegate or alternate delegate they have
9 appointed at any time. The legislature may recall the delegate or alternate
10 delegate appointed by the governor by adoption of a concurrent resolution
11 that provides for such recall. The house of representatives may recall a
12 delegate appointed by the speaker by adoption of a resolution that calls for
13 such recall. The senate may recall a delegate appointed by the president by
14 adoption of a resolution that calls for such recall.

15 (2) Any delegate that is recalled shall be replaced by an alternate
16 delegate appointed by the same officer that made the original appointment
17 of the recalled delegate. When an alternate delegate is appointed as a
18 delegate, the officer that made the original appointment of the alternate
19 delegate shall appoint a new alternate delegate.

20 (3) Any delegate or alternate delegate who votes or attempts to vote
21 on an unauthorized amendment or outside the scope of the limits placed by
22 the article V application or the concurrent resolution adopted by the
23 legislature pursuant to section 6, and amendments thereto, may be
24 immediately dismissed as a delegate by the approval of a majority of the
25 other delegates appointed.

26 (d) The secretary of state shall certify in writing to the article V
27 convention, the identity of the delegates appointed or dismissed and the
28 filling of any delegation vacancy.

29 Sec. 4. (a) Each delegate and alternate delegate shall reaffirm an oath
30 to support the constitution of the United States and the constitution of the
31 state of Kansas and faithfully abide by and execute any instructions to
32 delegates and alternate delegates adopted by the Kansas legislature.

33 (b) No delegate or alternate delegate may vote at an article V
34 convention to consider or approve an unauthorized amendment.

35 (c) A vote cast by a delegate or an alternate delegate at an article V
36 convention on an unauthorized amendment or that is outside the scope of
37 the limits placed by the article V application or the concurrent resolution
38 adopted by the legislature pursuant to section 6, and amendments thereto,
39 is void.

40 (d) A delegate or an alternate delegate at an article V convention who
41 votes or attempts to vote on an unauthorized amendment or outside of the
42 scope of the limits placed by the article V application or the concurrent
43 resolution adopted by the legislature pursuant to section 6, and

1 amendments thereto, forfeits their appointment as delegate or alternate
2 delegate to the article V convention and shall be immediately removed.

3 (e) Any vacancy in the delegation shall be filled in the manner
4 provided by law.

5 Sec. 5. (a) After an article V convention is called, the legislature shall
6 create a joint committee of correspondence responsible for
7 communications with the delegates to the convention. The membership of
8 such committee shall consist of five members as follows:

9 (1) The speaker of the house of representatives;

10 (2) the senate president;

11 (3) one member of the house of representatives elected by the
12 members of the house of representatives;

13 (4) one member of the senate elected by the members of the senate;
14 and

15 (5) the governor.

16 (b) The delegates shall direct all communications regarding the
17 convention to the joint committee of correspondence, including the
18 proposed adoption or modification of rules governing the convention, the
19 language of any proposed amendment under discussion, administrative
20 matters or any other matter requiring guidance. If the joint committee of
21 correspondence does not render a decision on the proposed adoption or
22 modification of rules governing the convention within 48 hours of
23 receiving notification from the delegates, the delegates shall presume that
24 the committee approves the proposed adoption or modification of such
25 rules.

26 (c) (1) A delegate, the speaker of the house of representatives, the
27 president of the senate, or the governor may request the joint committee of
28 correspondence to render an advisory determination as to whether an
29 action or an attempt to take action by a delegate is outside the scope of the
30 article V application or the concurrent resolution adopted by the legislature
31 pursuant to section 6, and amendments thereto. Upon receipt of such
32 request the joint committee of correspondence shall render such advisory
33 determination.

34 (2) The joint committee of correspondence shall render an advisory
35 determination pursuant to subsection (c)(1) in any manner considered
36 appropriate by the committee, or as provided by the concurrent resolution
37 adopted by the legislature pursuant to section 6, and amendments thereto.
38 Such advisory determination shall be rendered within 24 hours after
39 receiving a request for a determination. The joint committee of
40 correspondence shall provide a copy of such advisory determination in the
41 most expeditious manner possible to all of the delegates.

42 Sec. 6. (a) At the time delegates and alternate delegates are appointed,
43 the legislature shall adopt a concurrent resolution to provide instructions to

1 the delegates and alternate delegates regarding the following: (1) The rules
2 of procedure; and

3 (2) any other matter relating to the article V convention that the
4 legislature considers necessary.

5 (b) The legislature may amend such instructions at any time by
6 concurrent resolution.

7 Sec. 7. This act shall take effect and be in force from and after its
8 publication in the statute book.