

SENATE BILL No. 397

By Committee on Federal and State Affairs

1-26

1 AN ACT concerning conventions under article V of the constitution of the
2 United States; prescribing the appointment and qualifications of
3 delegates; duties and responsibilities thereof; instruction for delegates
4 by the 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 the delegate is recalled.

7 (c) (1) The speaker of the house of representatives, president of the
8 senate or governor may at any time recall any delegate or alternate
9 delegate appointed by such officer. The legislature may recall any delegate
10 or alternate delegate appointed by the governor by adoption of a
11 concurrent resolution that provides for such recall, or if the legislature is
12 not in session, the legislative coordinating council may recall any delegate
13 by a majority vote. The house of representatives may recall any delegate
14 appointed by the speaker by adoption of a resolution that calls for such
15 recall. The senate may recall any delegate appointed by the president by
16 adoption of a resolution that calls for such recall.

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

22 (d) Any vacancy in the delegation shall be filled in the manner
23 provided by law.

24 (e) The secretary of state shall certify in writing to the article V
25 convention the identity of the delegates appointed or dismissed and the
26 filling of any delegation vacancy.

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

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

33 (c) A vote cast by a delegate or an alternate delegate at an article V
34 convention on an unauthorized amendment or on any other measure that is
35 outside the scope of the limits placed by the article V application or the
36 instructions provided pursuant to section 6, and amendments thereto, is
37 void.

38 (d) Any delegate or alternate delegate who votes or attempts to vote
39 on an unauthorized amendment or on any other measure that is outside the
40 scope of the limits placed by the article V application or the instructions
41 provided pursuant to section 6, and amendments thereto, may be
42 immediately dismissed as a delegate upon the vote of a majority of the
43 other appointed delegates.

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

- 5 (1) The speaker of the house of representatives;
- 6 (2) the senate president;
- 7 (3) one member of the house of representatives elected by the
8 members of the house of representatives;
- 9 (4) one member of the senate elected by the members of the senate;
- 10 and
- 11 (5) the governor.

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

22 (c) (1) A delegate, the speaker of the house of representatives, the
23 president of the senate or the governor may request the joint committee of
24 correspondence to render an advisory determination as to whether an
25 action or an attempt to take action by a delegate is outside the scope of the
26 article V application or the instructions provided pursuant to section 6, and
27 amendments thereto. Upon receipt of such request, the joint committee of
28 correspondence shall render such advisory determination.

29 (2) The joint committee of correspondence shall render an advisory
30 determination pursuant to subsection (c)(1) in any manner considered
31 appropriate by the committee, or as required by the instructions provided
32 pursuant to section 6, and amendments thereto. Such advisory
33 determination shall be rendered within 24 hours after receiving a request
34 for a determination. The joint committee of correspondence shall provide a
35 copy of such advisory determination in the most expeditious manner
36 possible to all of the delegates.

37 Sec. 6. (a) At the time delegates and alternate delegates are appointed,
38 the legislature shall adopt a concurrent resolution to provide instructions to
39 the delegates and alternate delegates regarding the following:

- 40 (1) The rules of procedure; and
- 41 (2) any other matter relating to the article V convention that the
42 legislature considers necessary.

43 (b) If the legislature is not in session at the time delegates and

1 alternate delegates are appointed, the legislative coordinating council shall
2 provide instructions to the delegates and alternate delegates as prescribed
3 in subsection (a) by majority vote.

4 (c) The legislature may amend any instructions provided pursuant to
5 this section at any time by concurrent resolution.

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