

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 451

Introduced by Halloran, 33; Bostelman, 23; Brewer, 43; Briese, 41;
Clements, 2; Dorn, 30; Erdman, 47; Friesen, 34; Gragert,
40; Groene, 42; Hansen, B., 16; Kolterman, 24; Lowe, 37;
Murman, 38; Williams, 36.

Read first time January 18, 2019

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Constitution of the United States; to
- 2 adopt the Faithful Delegate to Federal Article V Convention Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as the Faithful
2 Delegate to Federal Article V Convention Act.

3 Sec. 2. For purposes of the Faithful Delegate to Federal Article V
4 Convention Act:

5 (1) Alternate delegate means an individual elected by the
6 Legislature to represent this state as an alternate delegate at an
7 Article V convention;

8 (2) Article V convention means a convention called by the United
9 States Congress under Article V of the Constitution of the United States;

10 (3) Delegate means:

11 (a) An individual elected by the Legislature to represent this state
12 as a delegate at an Article V convention; and

13 (b) An alternate delegate who fills a vacancy created by the removal
14 of a delegate or acts in place of the delegate in his or her absence; and

15 (4) Unauthorized vote means a vote by a delegate at an Article V
16 convention that:

17 (a) Is contrary to the instructions adopted by the Legislature in
18 effect at the time the vote is taken;

19 (b) Exceeds the scope of the subject matter of the Article V
20 convention authorized by the Legislature in the application to the United
21 States Congress to call the convention if the Legislature made an
22 application to call the convention; or

23 (c) Exceeds the scope or subject matter of the Article V convention
24 if the Legislature did not make an application to the United States
25 Congress to call the convention.

26 Sec. 3. The purpose of the Faithful Delegate to Federal Article V
27 Convention Act is to provide the rules and procedures necessary to create
28 and guide a delegation to an Article V convention and provide legislative
29 direction relating to the election or recall of a delegate or an
30 alternate delegate, the filling of a vacancy of a delegate or an
31 alternate delegate, and the determination of an unauthorized vote.

1 Sec. 4. (1) As soon as possible following the calling of an Article
2 V convention, the Legislature shall create an Article V Convention
3 Committee. The Legislature shall elect a delegate committee chairperson
4 and vice-chairperson. The Committee on Committees of the Legislature
5 shall, by majority vote of all the members, nominate one delegate and one
6 alternate delegate from each legislative caucus and submit a report of
7 the nominations to the Legislature for approval. If the Legislature does
8 not adopt the report by a vote of the majority of the members, the
9 Committee on Committees shall prepare another report.

10 (2) If the number of delegates allocated to represent this state at
11 the Article V convention is determined by the United States Congress or
12 by agreement among the states to be a number other than five, the
13 Legislature shall elect the appropriate number of delegates and alternate
14 delegates.

15 (3) Service as a delegate or alternate delegate by a member of the
16 Legislature is an additional duty of the legislative office.

17 (4) The Legislature shall pair each alternate delegate with a
18 delegate at the time of the election. The alternate delegate is
19 designated to automatically fill a vacancy in the position of the paired
20 delegate. If the positions of both the delegate and alternate delegate
21 are simultaneously vacated, the Legislature shall elect a new delegate
22 and paired alternate delegate to succeed the prior delegate and alternate
23 delegate.

24 Sec. 5. (1) The delegates and alternate delegates shall not be
25 compensated for their service as delegates and alternate delegates.

26 (2) The delegates and alternate delegates may be reimbursed for
27 their actual and necessary expenses incurred in the performance of their
28 official duties as provided in sections 81-1174 to 81-1177.

29 (3) A delegate or an alternate delegate may not accept a gift as
30 defined in section 49-1423 from a person who is required to register as a
31 lobbyist under the Nebraska Political Accountability and Disclosure Act.

1 Sec. 6. (1) Each delegate and alternate delegate shall take the
2 following oath before voting or taking an action as a delegate or
3 alternate delegate of this state: I do solemnly swear (or affirm) that,
4 to the best of my abilities, I will, as a delegate (or alternate
5 delegate) to the Article V convention, act according to the limits of the
6 authority granted to me as a delegate or alternate delegate under the
7 Faithful Delegate to Federal Article V Convention Act, will not consider
8 or vote to approve an amendment to the Constitution of the United States
9 not authorized by the Legislature in its application to the United States
10 Congress to call this convention or an amendment outside of the scope of
11 this convention if the Legislature did not make an application to the
12 United States Congress to call this convention, and will faithfully abide
13 by and execute the instructions to the delegates and alternate delegates
14 adopted by the Legislature.

15 (2) Each delegate and alternate delegate shall file the executed
16 oath with the Secretary of State.

17 Sec. 7. (1) At the time delegates and alternate delegates are
18 elected under the Faithful Delegate to Federal Article V Convention Act,
19 the Legislature shall adopt instructions for the delegates and alternate
20 delegates to govern their actions at the Article V convention.

21 (2) The Legislature shall not adopt instructions for an Article V
22 convention called following the application by the Legislature to the
23 United States Congress for the convention that authorize a delegate or
24 alternate delegate to consider or vote to approve an amendment to the
25 Constitution of the United States that is not authorized by the
26 Legislature in its application for the convention.

27 (3) The Legislature may amend the instructions at any time.

28 Sec. 8. An alternate delegate shall act in the place of the
29 alternate delegate's paired delegate when the delegate is absent from the
30 convention. An alternate delegate acting under this section shall be
31 deemed the delegate for purposes of such action.

1 Sec. 9. (1) A delegate shall not cast an unauthorized vote. A vote
2 determined to be an unauthorized vote is invalid.

3 (2) The determination that a vote is an unauthorized vote shall only
4 be made by the Legislature or by the advisory committee created pursuant
5 to section 11 of this act when the Legislature is not in session.

6 (3) A delegate who casts a vote determined to be an unauthorized
7 vote is disqualified to continue to serve as a delegate or alternate
8 delegate, and the vacancy created by the disqualification shall be filled
9 as provided in section 4 of this act.

10 Sec. 10. When it is determined by the Legislature or the advisory
11 committee created pursuant to section 11 of this act that a delegate has
12 cast an unauthorized vote, the Speaker of the Legislature shall promptly
13 notify the head of the delegation of this state and the presiding officer
14 of the Article V convention that the delegate has cast an unauthorized
15 vote and is disqualified to serve as a delegate.

16 Sec. 11. (1) The Executive Board of the Legislative Council and the
17 Lieutenant Governor shall serve as the advisory committee for the
18 delegates and alternate delegates attending the Article V convention. The
19 chairperson of the executive board shall serve as the chairperson of the
20 advisory committee. If the chairperson or any other member of the
21 executive board is serving as a delegate or an alternate delegate, his or
22 her position on the advisory committee shall be deemed vacant and the
23 vacancy shall be filled in the same manner as a vacancy on the executive
24 board. The Lieutenant Governor may cast the deciding vote in the event of
25 a tie vote by the rest of the members of the advisory committee.

26 (2) If the Legislature is not in session at a regular or special
27 session while an Article V convention is convened, the members of the
28 advisory committee shall:

29 (a) Meet at the call of the chairperson at the State Capitol;

30 (b) Upon the request of a delegate or an alternate delegate, advise
31 the delegate or alternate delegate whether there is reason to believe

1 that an action or an attempt to take an action by a delegate or alternate
2 delegate could result in an unauthorized vote; and

3 (c) Determine whether a vote cast by a delegate is an unauthorized
4 vote as provided in subsection (3) of this section.

5 (3) If a vote cast by a delegate is challenged as an unauthorized
6 vote under the Faithful Delegate to Federal Article V Convention Act, the
7 advisory committee shall determine that the vote is an unauthorized vote
8 only if six or more members of the advisory committee vote that it was an
9 unauthorized vote.

10 (4) The advisory committee shall not take any action when the
11 Legislature is convened in regular or special session.