

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 195**

Introduced by Halloran, 33; Aguilar, 35; Ballard, 21; Bostelman, 23;  
Brandt, 32; Brewer, 43; Briese, 41; Clements, 2; DeKay, 40;  
Dorn, 30; Erdman, 47; Hansen, B., 16; Hardin, 48;  
Holdcroft, 36; Jacobson, 42; Linehan, 39; Lippincott, 34;  
Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Slama, 1;  
von Gillern, 4.

Read first time January 09, 2023

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. Sections 1 to 11 of this act shall be known and may be  
2 cited as the Faithful 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 a member of the Legislature elected as  
6 provided in section 4 of this act to represent this state as an alternate  
7 delegate at an 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) A member of the Legislature elected as provided in section 4 to  
12 represent this state 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 such delegate's absence  
15 or incapacity;

16           (4) Legislative caucus means a group of legislative districts from  
17 which members are elected to the Executive Board of the Legislative  
18 Council as designated in subsection (1) of section 50-401.01; and

19           (5) Unauthorized vote means a vote by a delegate at an Article V  
20 convention that:

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

23           (b) Exceeds the scope of the subject matter of the Article V  
24 convention authorized by the Legislature in the application to the United  
25 States Congress to call the convention if the Legislature made an  
26 application to call the convention; or

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

30           Sec. 3. The purpose of the Faithful Delegate to Federal Article V  
31 Convention Act is to provide the rules and procedures necessary to create

1 and guide a delegation to an Article V convention and provide legislative  
2 direction relating to the election or recall of a delegate or an  
3 alternate delegate, the filling of a vacancy of a delegate or an  
4 alternate delegate, and the determination of an unauthorized vote.

5       Sec. 4. (1) As soon as possible following the calling of an Article  
6 V convention, the Legislature shall elect delegates and alternate  
7 delegates as provided in this section.

8       (2) The Committee on Committees of the Legislature shall, by  
9 majority vote of all committee members, nominate one delegate and one  
10 alternate delegate from each legislative caucus and submit a report of  
11 the nominations to the Legislature for approval. If the Legislature does  
12 not adopt the report by a majority vote of all members, the Committee on  
13 Committees shall prepare another report.

14       (3) If the number of delegates allocated to represent this state at  
15 the Article V convention is determined by the United States Congress or  
16 by agreement among the states to be a number other than three, the  
17 Legislature shall elect the appropriate number of delegates and alternate  
18 delegates.

19       (4) The delegates and alternate delegates elected pursuant to this  
20 section shall constitute the Article V Convention Committee. Of the  
21 delegate committee members so elected, the Legislature shall, by a  
22 majority vote of all members, elect a committee chairperson and vice-  
23 chairperson.

24       (5) Service as a delegate or alternate delegate by a member of the  
25 Legislature is an additional duty of the legislative office.

26       (6) The Legislature shall pair each alternate delegate with a  
27 delegate at the time of the election. In the event of a vacancy created  
28 by the removal of a delegate or the delegate's absence or incapacity, the  
29 paired alternate delegate shall automatically assume the role of the  
30 paired delegate until such time as the delegate is no longer absent or  
31 incapacitated. If a paired delegate and alternate delegate are both

1 removed, absent, or incapacitated, the Legislature shall elect a new  
2 delegate and paired alternate delegate.

3       Sec. 5.    (1) Delegates and alternate delegates shall not be  
4 compensated for their service as delegates and alternate delegates.

5       (2) Delegates and alternate delegates may be reimbursed for their  
6 expenses incurred in the performance of their official duties as provided  
7 in sections 81-1174 to 81-1177.

8       (3)(a) A delegate or an alternate delegate shall not accept a gift  
9 as defined in section 49-1423 from (i) any person who is required to  
10 register as a lobbyist under the Nebraska Political Accountability and  
11 Disclosure Act, (ii) any person who is required to register as a lobbyist  
12 with any other state, or (iii) any person who is required to register and  
13 file reports of lobbying activities, contributions, and expenses with the  
14 Secretary of the United States Senate or the Clerk of the United States  
15 House of Representatives.

16       (b) Any person who knowingly and intentionally violates this  
17 subsection is guilty of a Class III misdemeanor.

18       Sec. 6.    (1) Each delegate and alternate delegate shall take the  
19 following oath upon election as a delegate or alternate delegate: I do  
20 solemnly swear (or affirm) that, to the best of my abilities, I will, as  
21 a delegate (or alternate delegate) to the Article V convention, act  
22 according to the limits of the authority granted to me as a delegate or  
23 alternate delegate under the Faithful Delegate to Federal Article V  
24 Convention Act, will not consider or vote to approve an amendment to the  
25 Constitution of the United States not authorized by the Legislature in  
26 its application to the United States Congress to call this convention or  
27 an amendment outside of the scope of this convention if the Legislature  
28 did not make an application to the United States Congress to call this  
29 convention, and will faithfully abide by and execute the instructions to  
30 the delegates and alternate delegates adopted by the Legislature.

31       (2) Each delegate and alternate delegate shall file the executed

1 oath with the Secretary of State.

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

6 (2) The Legislature shall not adopt instructions for an Article V  
7 convention called following the application by the Legislature to the  
8 United States Congress for the convention that authorize a delegate or  
9 alternate delegate to consider or vote to approve an amendment to the  
10 Constitution of the United States that is not authorized by the  
11 Legislature in its application for the convention.

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

13 Sec. 8. An alternate delegate shall act in the place of the  
14 alternate delegate's paired delegate in the event of a vacancy created by  
15 the removal of the delegate or the delegate's absence or incapacity. An  
16 alternate delegate acting under this section shall be deemed the delegate  
17 for purposes of such action.

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

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

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

27 Sec. 10. When it is determined by the Legislature or the advisory  
28 committee created pursuant to section 11 of this act that a delegate has  
29 cast an unauthorized vote, the Speaker of the Legislature shall promptly  
30 notify the Article V Convention Committee chairperson and the presiding  
31 officer of the Article V convention that the delegate has cast an

1 unauthorized vote and is disqualified to serve as a delegate.

2       Sec. 11. (1) The Executive Board of the Legislative Council and the  
3 Lieutenant Governor shall serve as the advisory committee for the Article  
4 V Convention Committee. The chairperson of the executive board shall  
5 serve as the chairperson of the advisory committee. If the chairperson or  
6 any other member of the executive board is serving as a delegate or an  
7 alternate delegate, the chairperson's or other board member's position on  
8 the advisory committee shall be deemed vacant and the vacancy shall be  
9 filled in the same manner as a vacancy on the executive board. The  
10 Lieutenant Governor may cast the deciding vote in the event of a tie vote  
11 by the rest of the voting members of the advisory committee.

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

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

16       (b) Upon the request of a delegate or an alternate delegate, advise  
17 the delegate or alternate delegate whether there is reason to believe  
18 that an action or an attempt to take an action by a delegate or alternate  
19 delegate could result in an unauthorized vote; and

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

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

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