

102D CONGRESS  
1ST SESSION

# S. 214

To provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the United States Constitution.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15 (legislative day, JANUARY 3), 1991

Mr. HATCH (for himself and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the United States Constitution.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the “Constitutional Convention  
4 Implementation Act of 1991”.

5       APPLICATIONS FOR CONSTITUTIONAL CONVENTION

6       SEC. 2. (a) The legislature of a State, in making appli-  
7 cation to the Congress for a constitutional convention under  
8 article V of the Constitution of the United States, for the  
9 purpose of proposing one or more specific amendments, shall  
10 adopt a resolution pursuant to this Act stating, in substance,

1 that the legislature requests the calling of a convention for  
2 the purpose of proposing one or more specific amendments to  
3 the Constitution of the United States and stating the subject  
4 matter of the amendment or amendments to be proposed.

5 (b) The procedures provided by this Act are required to  
6 be used whenever application is made to the Congress, under  
7 article V of the Constitution of the United States, for the  
8 calling of any convention for the purposes of proposing one or  
9 more specific amendments to the Constitution of the United  
10 States, each applying State stating in the terms of its appli-  
11 cation the subject matter of the amendment or amendments  
12 to be proposed. This Act is not intended to apply to applica-  
13 tions requesting a convention for any other purpose under  
14 article V of the Constitution.

#### 15 APPLICATION PROCEDURE

16 SEC. 3. (a) The rules of procedure governing the  
17 adoption or withdrawal of a resolution pursuant to section 2  
18 and section 5 of this Act are determinable by the State legis-  
19 lature, except that the assent of the Governor as to any  
20 application or withdrawal shall be unnecessary.

21 (b) Questions concerning compliance with the rules  
22 governing the adoption or withdrawal of a State resolution  
23 cognizable under this Act are determinable by the State leg-  
24 islature, except that questions concerning the fact of final ap-  
25 proval of such resolution by no less than a majority vote of

1 each House of such legislature shall be determinable by the  
2 Congress of the United States.

3                                   TRANSMITTAL OF APPLICATIONS

4           SEC. 4. (a) Within thirty days after the effective date of  
5 the resolution adopted by the legislature of a State calling for  
6 a constitutional convention, the secretary of state of the  
7 State, or, if there be no such officer, the person who is  
8 charged by the State law with such function, shall transmit  
9 to the Congress of the United States two copies of the appli-  
10 cation, one addressed to the President of the Senate and one  
11 to the Speaker of the House of Representatives.

12           (b) Each copy of the application so made by any State  
13 shall contain—

14                   (1) the title of the resolution, the exact text of the  
15 resolution signed by the presiding officer of each house  
16 of the State legislature, the date on which the legisla-  
17 ture adopted the resolution, and a certificate of the sec-  
18 retary of state of the State, or such other person as is  
19 charged by the State law with such function, certifying  
20 that the application accurately sets forth the text of the  
21 resolution; and

22                   (2) to the extent practicable, and if desired, a list  
23 of all State applications in effect on the date of  
24 adoption whose subject matter are substantially the  
25 same as the subject matter set forth in the application.

1 (c) Within ten days after receipt of a copy of any such  
2 application, the President of the Senate and Speaker of the  
3 House of Representatives shall report to the House of which  
4 he is presiding officer, identifying the State making applica-  
5 tion, the subject matter of the application, and the number of  
6 States then having made application on such subject. The  
7 President of the Senate and Speaker of the House of Repre-  
8 sentatives shall jointly cause copies of such application to be  
9 sent to the presiding officer of each house of the legislature of  
10 every other State and to each Member of the Senate and  
11 House of Representatives of the Congress of the United  
12 States.

13 EFFECTIVE PERIOD OF APPLICATION

14 SEC. 5. (a) An application submitted to the Congress by  
15 a State, unless sooner withdrawn by the State legislature,  
16 shall remain effective for the lesser of the period specified in  
17 such application by the State legislature or for a period of  
18 seven calendar years after the date it is received by the Con-  
19 gress, except that whenever within a period of seven calen-  
20 dar years two-thirds or more of the several States have each  
21 submitted an application calling for a constitutional conven-  
22 tion on the same subject matter all such applications shall  
23 remain in effect until the Congress has taken action on a  
24 concurrent resolution, pursuant to section 6 of this Act, call-  
25 ing for a constitutional convention: *Provided, however,* That  
26 those applications which have not been before the Congress

1 for more than sixteen years on the effective date of this Act  
2 shall be effective for a period of not less than two years.

3 (b) A State may withdraw its application calling for a  
4 constitutional convention by adopting and transmitting to the  
5 Congress a resolution of withdrawal in conformity with the  
6 procedures specified in sections 3 and 4 of this Act, except  
7 that no such withdrawal shall be effective as to any valid  
8 application made for a constitutional convention upon any  
9 subject after the date on which two-thirds or more of the  
10 State legislatures have valid applications pending before the  
11 Congress seeking amendments on the same subject matter.

12 **CALLING OF A CONSTITUTIONAL CONVENTION**

13 **SEC. 6.** (a) It shall be the duty of the Secretary of the  
14 Senate and the Clerk of the House of Representatives to  
15 maintain a record of all applications received by the Presi-  
16 dent of the Senate and Speaker of the House of Representa-  
17 tives from States for the calling of a constitutional convention  
18 upon each subject matter. Whenever applications made by  
19 two-thirds or more of the States with respect to the same  
20 subject matter have been received, the Secretary and the  
21 Clerk shall so report within five days, in writing to the officer  
22 to whom those applications were transmitted, and such offi-  
23 cer, no later than the fifth day subsequent to the receipt of  
24 such report during which the House of which he is an officer  
25 is in session, shall announce its substance on the floor of such  
26 House. It shall then be the duty of such House to determine

1 whether there are in effect valid applications made by two-  
2 thirds of the States with respect to the same subject matter.  
3 If either House of the Congress determines, upon a consider-  
4 ation of any such report or of a concurrent resolution agreed  
5 to by the other House of the Congress, that there are in  
6 effect valid applications made by two-thirds or more of the  
7 States for the calling of a constitutional convention upon the  
8 same subject matter, it shall be the duty of that House,  
9 within forty-five calendar days following the day on which  
10 the report of the Clerk or the Secretary was announced on  
11 the floor of that House, to agree to a concurrent resolution  
12 calling for the convening of a Federal constitutional conven-  
13 tion upon that subject matter. Each such concurrent resolu-  
14 tion shall (1) designate the place and time of meeting of the  
15 convention, and (2) set forth the subject matter of the amend-  
16 ment or amendments for the consideration of which the con-  
17 vention is called. A copy of each such concurrent resolution  
18 agreed to by both Houses of the Congress shall be transmit-  
19 ted forthwith to the Governor and to the presiding officer of  
20 each house of the legislature of each State.

21 (b) The convention shall be convened not later than  
22 eight months after adoption of the resolution.

23

#### DELEGATES

24 SEC. 7. (a) In each State two delegates shall be elected  
25 on an at-large basis and one delegate shall be elected from  
26 each congressional district in the manner provided by State

1 law. No Senator or Representative, or person holding an  
2 office of trust or profit under the United States, shall be  
3 elected as delegate. Any vacancy occurring in a State delega-  
4 tion shall be filled by appointment of the legislature of that  
5 State.

6 (b) The secretary of state of each State, or, if there be  
7 no such officer, the person charged by State law to perform  
8 such function, shall certify to the President of the Senate and  
9 the Speaker of the House of Representatives the name of  
10 each delegate elected or appointed by the legislature of the  
11 State pursuant to this section.

12 (c) The people of the District of Columbia shall elect as  
13 many delegates as the whole number of Senators and Repre-  
14 sentatives to which said District would be entitled in the  
15 Congress if it were a State. Any vacancy occurring in the  
16 delegation of the District of Columbia shall be filled by ap-  
17 pointment of the District of Columbia Council. The Clerk of  
18 the District of Columbia Council shall certify to the President  
19 of the Senate and the Speaker of the House of Representa-  
20 tives the name of each delegate elected or appointed by the  
21 Council pursuant to this section.

22 (d) Delegates shall in all cases, except treason, felony,  
23 and breach of the peace, be privileged from arrest during  
24 their attendance at a session of the convention, and in going  
25 to and returning from the same; and for any speech or debate

1 in the convention they shall not be questioned in any other  
2 place.

3 **CONVENING THE CONVENTION**

4 **SEC. 8. (a)** The President pro tempore of the United  
5 States Senate and the Speaker of the United States House of  
6 Representatives shall jointly convene the constitutional con-  
7 vention. They shall administer the oath of office of the dele-  
8 gates to the convention and shall preside until the delegates  
9 elect a presiding officer who shall preside thereafter. Before  
10 taking his seat each delegate shall subscribe to an oath by  
11 which he shall be committed during the conduct of the con-  
12 vention to comply with the Constitution of the United States.  
13 Further proceedings of the convention shall be conducted in  
14 accordance with such rules, not inconsistent with this Act, as  
15 the convention may adopt by vote of three-fifths of the  
16 number of delegates who have subscribed to the oath of  
17 office.

18 **(b)** There is hereby authorized to be appropriated such  
19 sums as may be necessary for the payment of the expenses of  
20 the convention, including payment to each delegate of an  
21 amount of pay equal to that for Members of Congress pro-  
22 rated for the term of the convention, as well as necessary  
23 travel expenses for such delegates. In the event that such  
24 sums are not appropriated in a timely manner, or are appro-  
25 priated subject to additional conditions, the convention shall  
26 be authorized to apportion its costs among the States.



1 (c) The Administrator of General Services shall provide  
2 such facilities, and the Congress and each executive depart-  
3 ment, agency, or authority of the United States shall provide  
4 such information and assistance as the convention may re-  
5 quire, upon written request made by the elected presiding  
6 officer of the convention.

#### 7 PROCEDURES OF THE CONVENTION

8 SEC. 9. (a) In voting on any question before the conven-  
9 tion, including the proposal of amendments, each delegate  
10 shall have one vote.

11 (b) The convention shall keep a daily verbatim record of  
12 its proceedings and publish the same. The vote of the dele-  
13 gates on any question shall be entered on the record.

14 (c) The convention shall terminate its proceedings  
15 within six months after convening unless the period is ex-  
16 tended by concurrent resolution of the Congress of the United  
17 States upon request from the convention.

18 (d) Within thirty days after the termination of the pro-  
19 ceedings of the convention, the presiding officer shall trans-  
20 mit to the Archivist of the United States all records of official  
21 proceedings of the convention.

#### 22 PROPOSAL OF AMENDMENTS

23 SEC. 10. No convention called under this Act may pro-  
24 pose any amendment or amendments of a subject matter dif-  
25 ferent from that stated in the concurrent resolution calling  
26 the convention.

1 APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE  
2 STATES FOR RATIFICATION

3 SEC. 11. (a) The presiding officer of the convention  
4 shall, within thirty days after the termination of its proceed-  
5 ings, submit to the Congress the exact text of any amend-  
6 ment or amendments agreed upon by the convention.

7 (b) Whenever a constitutional convention called under  
8 this Act has transmitted to the Congress a proposed amend-  
9 ment to the Constitution, the Congress shall in as expeditious  
10 a manner as possible, but in any case within six months  
11 thereafter, adopt a concurrent resolution—

12 (i) directing the Administrator of General Services  
13 to transmit forthwith to each of the several States a  
14 duly certified copy thereof, and a copy of any concur-  
15 rent resolution agreed to by both Houses of Congress  
16 which prescribes the mode in which such amendment  
17 shall be ratified and the time within which such  
18 amendment shall be ratified in the event that the  
19 amendment itself contains no such provision. In no  
20 case shall such a resolution prescribe a period for rati-  
21 fication of less than four years; or

22 (ii) stating that the Congress does not direct the  
23 submission of such proposed amendment to the States  
24 because such proposed amendment relates to or in-  
25 cludes subject matter which differs from or was not in-

1       cluded in the subject matter named or described in the  
2       concurrent resolution of the Congress by which the  
3       convention was called.

4       (c) In the event that the Congress has not passed a con-  
5       current resolution under subsection (b)(i) within the time pre-  
6       scribed therein, during the thirty days following any State  
7       may commence an action under section 15 of this Act seek-  
8       ing a declaration that the proposed amendment is consistent  
9       with the concurrent resolution by the Congress by which the  
10      convention was called and directing its submission to the  
11      States for ratification.

12      (d) Notwithstanding the issuance of such order, the  
13      mandate of the Court shall not issue prior to the expiration of  
14      the first period of thirty days following the date on which  
15      such order is issued. Congress may during such thirty-day  
16      period, adopt a concurrent resolution prescribing the mode in  
17      which such amendment shall be ratified, and the time within  
18      which the amendment shall be ratified in the event that the  
19      amendment itself contains no such provision. In no case shall  
20      such a resolution prescribe a period for ratification of less  
21      than four years.

22      (e) In the event that the Congress has not adopted a  
23      concurrent resolution under subsection (d) within the time  
24      prescribed therein, the mandate for such order shall issue  
25      forthwith. The mode for ratification in such case shall be by

1 action of the legislatures of three-fourths of the States within  
2 a period of seven years, unless the amendment itself contains  
3 a different period.

#### 4 RATIFICATION OF PROPOSED AMENDMENTS

5 SEC. 12. (a) Any amendment proposed by the conven-  
6 tion and submitted to the States in accordance with the pro-  
7 visions of this Act shall be valid for all intents and purposes  
8 as part of the Constitution of the United States when duly  
9 ratified by three-fourths of the States in the manner and  
10 within the time specified consistent with the provisions of  
11 article V of the Constitution of the United States.

12 (b) The secretary of state of the State, or if there be no  
13 such officer, the person who is charged by State law with  
14 such function, shall transmit a certified copy of the State  
15 action ratifying any proposed amendment to the Administra-  
16 tor of General Services.

#### 17 RESCISSION OF RATIFICATIONS

18 SEC. 13. (a) Any State may rescind its ratification of a  
19 proposed amendment by the same procedures by which it  
20 ratified the proposed amendment, unless other procedures are  
21 specified by such State, except that no State may rescind  
22 when there are existing valid ratifications of such amendment  
23 by three-fourths of the States.

24 (b) Any State may ratify a proposed amendment even  
25 though it previously may have rejected the same proposal or  
26 may have rescinded a prior ratification thereof.

## 1 PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

2 SEC. 14. The Administrator of General Services, when  
3 three-fourths of the several States have ratified a proposed  
4 amendment to the Constitution of the United States, shall  
5 issue a proclamation that the amendment is a part of the  
6 Constitution of the United States.

## 7 JUDICIAL REVIEW

8 SEC. 15. (a) Any State aggrieved by any determination  
9 or finding, or by any failure of Congress to make a determi-  
10 nation or finding within the periods provided, under section 6  
11 or section 11 of this Act may bring an action in the Supreme  
12 Court of the United States against the Secretary of the  
13 Senate and the Clerk of the House of Representatives or,  
14 where appropriate, the Administrator of General Services,  
15 and such other parties as may be necessary to afford the  
16 relief sought. Such an action shall be given priority on the  
17 Court's docket.

18 (b) Every claim arising under this Act shall be barred  
19 unless suit is filed thereon within sixty days after such claim  
20 first arises.

21 (c) The right to review by the Supreme Court provided  
22 under subsection (a) does not limit or restrict the right to  
23 judicial review of any other determination or decision made  
24 under this Act or such review as is otherwise provided by the  
25 Constitution or any other law of the United States.

## 1                   EFFECTIVE DATE OF AMENDMENTS

2           SEC. 16. An amendment proposed to the Constitution of  
3 the United States shall be effective from the date specified  
4 therein or, if no date is specified, then one year after the date  
5 on which the last State necessary to constitute three-fourths  
6 of the States of the United States, as provided for in article  
7 V, has ratified the same.

## 8                   SEVERABILITY

9           SEC. 17. In the event that any part of this Act be held  
10 unconstitutional, the same shall not necessarily affect the  
11 validity of other sections of this Act.

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