

Open Letter to All Texas Republican Senators about HJR 98 (SJR 54) Documentation

Senate State Affairs Committee Hearing March 6, 2025 on a related delegate bill ([Scroll to 51:40](#))

- A. Under current Texas law, if a delegate's vote is unauthorized, i.e. outside the scope of the Texas application, the delegate is disqualified from serving and recalled. But as Sen. Hughes, committee chair, said in presenting a new bill proposing state jail penalties on convention delegates on March 6, 2025, "*as a practical matter, we are closing the gate after the cows have gotten out!*" He explained that he was endeavoring to put teeth in the 2017 delegate law, with his 2025 bill, SB 1187.
- B. All members of the committee seemed to agree that controlling delegates to an Article V convention is a serious matter, because the process affects Amendments to the US Constitution.
- C. Sen. Birdwell, lead sponsor of the 2017 application and delegate bill, as well as Senate sponsor of the 2025 Senate application, SJR 54, is the go-to committee member on this issue. He opposes criminal penalties for delegates, he explained, because of the process—not the principle. And he is willing to work with committee members to establish a Senate Concurrent Amendment (SCA) to the Texas Constitution that would facilitate expulsion from the Senate as a penalty instead. Both Senators Birdwell & Hughes admitted they've been debating the means to solve the unfaithful delegate/runaway convention issue for more than 8 years **without success**.
- D. Chair Hughes closed the hearing, after the committee's deep dive into the weeds, and the bill has been left pending for 2 months. And it was obvious to those observing, that the issue wouldn't be resolved any time soon, if ever. Sen. Hughes' solution has defects that he freely admitted. And Sen. Birdwell's solution, which also has defects, would involve a 2/3 vote of both houses and a vote of the People of Texas to enact—which won't happen anytime soon. Apparently these were their best ideas after 8 years of debate.
- E. The Senators participating in the discussion—Senators Bettencourt, Birdwell, and Hughes all agreed with Senator Perry's summation as the only guarantee, "Choose [delegates] wisely, grasshopper." Bettencourt noted, "The best way to summarize this argument is, we'd better choose wisely who we send, no matter what ... I think I could nominate one or 2 people at this table to go"—pointing to Senators Birdwell and Hughes, among laughter. Sen. Birdwell noted that the defects in his own plan can be ameliorated by which Senators they choose. Sen. Hughes said, "My goal, like yours, is to put as many checks in place to give us confidence we can send these delegates out, knowing that they'll stay within their authority. So that's where I would like to get. I know you would too. That's why I still have some concerns. ... We all want to learn and get this right."
- F. Seven weeks later, the Committee met to hear SJR 54, the Convention of States' Senate Resolution, and seemed to forget their previous deep discussion. Yesterday, May 5, 2025, all four Republican Senators mentioned above, along with 4 other Republicans—voted **HJR 98** (SJR 54) out of committee—**without** solving the problem. We appreciate Senators Hall and Paxton having the courage to vote their conscience in the face of enormous pressure. HJR 98 is now on the Intent Calendar.

Who Will the Delegates Be—and Who Can Control Them?

Article V says that **Congress** shall call a convention when 2/3 of the State Legislatures ask Congress to call one. Art I, Sec. 8, last clause, says that **Congress** has the power to make all Laws necessary to carry out its constitutional powers, which include calling the convention.

A Congressional Research Service Report dated April 11, 2014 ([pg. 4](#)) shows that Congress is well aware that it has broad responsibilities in connection with a convention, including deciding which applications are valid, establishing procedures to summon the convention, and determining the number and selection process for its delegates. And from the same report, [pg. 40](#): there doesn't seem to be any "...constitutional prohibition against [US] Senators and [US] Representatives serving as delegates to an Article V Convention..." In other words, Congress could appoint themselves as Delegates!

Power flows from the People in our constitutional Republic. Delegates to a convention would have more power than State Legislatures, Congress, & the President combined. As sovereign Representatives of We the People, they would have the "self-evident" right "to alter or to abolish" our "Form of Government," as recognized by the Declaration of Independence, [para. 2](#). And that includes writing a new Constitution, with a new and easier mode of ratification—as did the Delegates to the 1787 Philadelphia convention. And that could be a national popular vote, using voting machines!

The Delegates wouldn't be subject to state law. The limitations that States put on Delegates in the [language of the applications](#) and [delegate bills](#) serve only to falsely assure legislators that the convention can't run away—so they'll vote for the applications.

James Madison invoked the Declaration of Independence in [Federalist No. 40](#) (15th para) to justify the 1787 Delegates' proposing a new Constitution when they were commissioned only to revise the Articles of Confederation. And that is our only precedent for a national "amendments" convention.

In fact, authors with ties to Convention of States and the Balanced Budget Amendment wrote "[A Convention Strategy](#)" on Feb. 13, 2020, which points out that a consensus among nine constitutional scholars agree that "Congress lacks authority to limit in anyway the call" for a convention. They conclude that "convening a general [convention], overcomes the risk of the US Supreme Court ruling against the legitimacy of Congress having authority to call and sanction a limited [convention]." They promote and define a "general" convention as one which "allows delegates to propose, debate, and vote upon **any and all amendments** subject to convention rules adopted by the delegates themselves."

We may not be following the US Constitution we have now, but at least we can dust it off and use it when we grow a backbone—that is, if we don't lose it at an Article V Convention.

Please Vote NO on HJR 98 (SJR 54)