

**April 2016**

**United States Constitutional  
Amendments  
Minnesota's Legislative History**

The Research Department of the Minnesota House of Representatives is a nonpartisan professional office serving the entire membership of the House and its committees. The department assists all members and committees in developing, analyzing, drafting, and amending legislation.

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Amendments  
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This publication provides background on the Minnesota Legislature's history of involvement in the United States Constitutional amendment process.

**About This Publication.** This publication is designed as a reference guide to Minnesota's historical involvement in the process of amending the U.S. Constitution. It is one in a series of House Research Department documents exploring the role of the legislature in amending both the U.S. and Minnesota's state constitution.

The constitutional amendment series is designed as a guide for legislators to (1) understand the legislature's powers and constraints in the constitutional amendment process; and (2) provide a history of legislative actions related to proposing and ratifying both federal and state constitutional amendments. Other publications in this series include:

- *Minnesota Constitutional Amendments: History and Legal Principles*, House Research Department, 2013
- *Legislative Approval of Proposed Constitutional Amendments (1894-2013)*, House Research Department, 2013
- *United States Constitutional Amendment Process: Legal Principles for State Legislators*, House Research Department, 2016

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## Introduction

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As laid out by the United States Constitution, states have a pivotal role in making changes, or amendments, to the federal constitution. This publication provides general background on how the constitutional amendment process works, with a focus on the Minnesota Legislature's history of involvement in the process.

Since 1789, Congress has proposed 33 amendments to the states for ratification. Of these 33, states have fully ratified 27. Minnesota ratified 18 of those amendments in the period since its statehood.

While the U.S. Constitution gives states the power to participate in the amendment process, state legislative procedures are governed by individual states' constitutions, laws, rules, and customs.

## Part 1: The Amendment Process and Procedural Issues

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### United States Constitutional Amendment Process: Article V

The process for amending the U.S. Constitution is established by Article V:

*The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.*

The text of Article V provides two direct roles for a state legislature in the amendment process:

- (1) At the discretion of Congress, a state legislature may be the body charged with ratifying a proposed amendment.
- (2) A state legislature, on its own initiative, may apply to Congress for a convention at which amendments may be proposed.

Through 2015, 33 proposed amendments have been submitted to the states by Congress; 27 of these proposed amendments have been fully ratified by three-fourths of states. Minnesota has ratified 18 of these proposed amendments and has submitted three applications to Congress for a constitutional convention.

All proposed amendments have been initiated by Congress, and nearly all of them have required ratification through the vote of each state's legislature. Only one amendment (the 21st, repealing prohibition) was ratified through a process of state conventions, rather than by state legislatures.



## **Procedural Issues in the State Legislative Process for Federal Constitutional Amendments**

This section provides a brief overview of procedural issues related to federal constitutional amendments in the state legislative process.

Many of the concepts discussed in this section are described in greater detail—including comprehensive case law citations and examples from procedures outside of Minnesota—in the companion House Research Department publication, *United States Constitutional Amendment Process: Legal Principles for State Legislators*.

### **General Procedural Rules**

The Article V constitutional amendment process presents a unique challenge for state legislatures: while the power of legislatures to participate in the process comes exclusively from the requirements written in the U.S. Constitution, state legislative procedure is also governed by the requirements and restrictions of each individual state's constitution, laws, rules, and customs. As a result, any act of a legislature to ratify an amendment or apply for a convention must conform to both federal and state procedures.

While never an issue in Minnesota, courts reviewing procedural requirements for legislative action in other states have generally upheld state requirements that provide stricter standards for ratifying a proposed amendment compared to ordinary legislation, so long as those stricter standards still conform to the Article V mandate that a ratification be an act of the legislative body. Examples of standards that have been upheld include supermajority vote requirements for ratification, and advisory referendums to guide the legislature in its decision on ratification. These standards are occasionally found in state constitutions, but more frequently they appear in the procedural rules adopted by one or both bodies of a state's legislature.

The Minnesota Constitution is silent on the issue of ratifying amendments to the U.S. Constitution, and (with the exception of presentment, discussed below) there are no surviving records to indicate the Minnesota Legislature has ever adopted rules providing procedures for ratification of an amendment or application for a convention outside of the normal operating rules of the legislature for ordinary legislation.

### **Style of Ratification**

Among the procedural rules related to proposed constitutional amendments, some states have enacted rules requiring ratifications and convention requests to be styled as a particular form of resolution. At least ten states require ratification by joint resolution, and at least six states require ratification by concurrent resolutions.

Minnesota does not have a legislative rule or constitutional provision mandating a particular form of resolution to be used in ratifying a proposed amendment or applying for a convention. However, these legislative acts were customarily styled as joint resolutions through much of the

19th and early 20th centuries. The 13th and 14th amendments are exceptions to this practice—discussion of a deep and substantive dispute between the Minnesota House and the Minnesota Senate over the proper form for ratifying the 13th amendment, which was the first proposed amendment Minnesota had an opportunity to ratify following its statehood, is included in the ratification notes in Part 2.

Beginning in 1961, with ratification of the 23rd amendment (District of Columbia Electoral Rights), Minnesota's ratifications and applications for Article V conventions have been styled more simply as "a resolution."

In 1999, the Minnesota Legislature adopted a joint rule that exempts constitutional amendment ratifications and convention applications from presentment to the governor if the legislative action is styled as a joint resolution.<sup>1</sup> To date, a ratification or application for a convention has not been adopted in the period since the rule change was enacted.

The joint rule does not require the use of a joint resolution to ratify a proposed amendment or apply for a convention, but instead provides it as an option. Another form of resolution that may be used is a "memorial resolution." In deciding which form is most appropriate, the legislature may wish to consider the implications for each form of resolution in the legislative process:

- **Joint resolution.** As described above, a joint resolution is exempt from presentment to the governor if it proposes to ratify a constitutional amendment or apply for a convention.

The rules of the Minnesota House provide that joint resolutions must be introduced and take the same course as a bill.<sup>2</sup> When a joint resolution is before the House, all members who are present are required to cast a vote for or against the resolution, except for members who are excused from voting.<sup>3</sup>

- **Memorial resolution.** The joint rules do not include an exemption from presentment for a memorial resolution, even if the resolution proposes to ratify a constitutional amendment or apply for a convention. This means that a memorial resolution will be submitted to the governor for signature.

The governor's signature likely carries no legal weight when determining whether Minnesota will be recorded as ratifying a proposed amendment. However, the governor's signature may serve a symbolic purpose, and nothing prevents the legislature from requesting it if it would like to do so.

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<sup>1</sup> For the current version of this rule, see [88th Legislature, Temporary Joint Rules of the Senate and House of Representatives, 2.07](#) (2013).

<sup>2</sup> See [89th Legislature, Permanent Rules of the House, 4.02](#) (2015).

<sup>3</sup> See [89th Legislature, Permanent Rules of the House, 2.05](#) (2015).

Like a joint resolution, Minnesota House rules provide that memorial resolutions must take the same course as a bill.<sup>4</sup> However, unlike a joint resolution, the rules also provide that House members are *not* required to vote on a memorial resolution.<sup>5</sup>

## Presentment to the Governor

Despite the lack of a requirement under Article V, Minnesota resolutions ratifying constitutional amendments have customarily been presented to the governor.

There is no indication in any surviving legislative records to suggest that this practice has ever interfered with the ability of the legislature to certify an amendment ratification as required by the U.S. Constitution and federal law.

The 1999 amendment to Minnesota's Joint Rules—which exempts joint resolutions ratifying a proposed constitutional amendment, or applying for a convention, from the presentment process—requires the Revisor of Statutes to deposit the resolution directly with the Secretary of State.<sup>6</sup>

On at least one occasion, in 2013, a joint resolution was introduced in the legislature that contained both an application for a convention and a request that Congress propose a constitutional amendment on its own initiative. If this resolution had been adopted, it would have been presented to the governor for signature because the section of the resolution requesting Congress propose an amendment on its own initiative would have required the governor's approval. While this type of resolution was introduced once, it otherwise is inconsistent with the Minnesota Legislature's historic customs and practices.<sup>7</sup>

## Suspension of Rules

Minnesota's legislative process is guided by procedural requirements imposed by the Minnesota Constitution. Included among the procedures is a requirement that bills be reported (or "read") on three different days in each body prior to final passage. This rule can be waived if the body finds that an "urgency" mandates passage in a more expedited fashion. Declaration of an urgency requires a vote of two-thirds of the body considering the matter.<sup>8</sup>

The suspension of this rule for purposes of considering a proposed constitutional amendment is frequently a part of Minnesota's ratification process: the rules have been suspended in either one

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<sup>4</sup> See 89th Legislature, Permanent Rules of the House, 4.02 (2015).

<sup>5</sup> See 89th Legislature, Permanent Rules of the House, 2.05 (2015).

<sup>6</sup> For the current version of this rule, see 88th Legislature, [Temporary Joint Rules of the Senate and House of Representatives, 2.07](#) (2013).

<sup>7</sup> See S.F. 17, 88th Leg. (Minn. 2013), requesting that Congress propose a constitutional amendment related to the rights of artificial entities to engage in political speech or, in the alternative, applying for an Article V convention for that purpose. The resolution was amended to become a "memorial" rather than a "joint" resolution as it moved through the legislative process.

<sup>8</sup> See [Minn. Const. art. IV](#), § 19.

or both bodies during ratification of at least ten amendment proposals.

The explanation of the legislative process that follows each set of ratification data in Part 2 indicate whether the process included a suspension of the rules.

## **Rescission of Ratification, Rejection, and Ratification after Prior Rejection**

There are no surviving records to indicate the Minnesota Legislature has attempted to rescind its prior ratification of a proposed constitutional amendment.

Of the amendments proposed during Minnesota's statehood, the legislature has rejected two:

1. **Proposed Corwin Amendment.** Proposed in 1861, an amendment that would have prohibited the elimination of slavery through a constitutional amendment (commonly referred to as the "Corwin" amendment) was implicitly rejected by the legislature following its failure to take action to ratify it and its subsequent ratification of the 13th amendment (abolishing slavery).

The legislature's rejection of the Corwin amendment had no practical impact on that amendment's failure to achieve full ratification: at its peak, the amendment was ratified by only three states and was largely discredited by northern states at the time it was proposed. In the years since it was proposed, at least two of those states have taken action to rescind their ratifications.

2. **Proposed Child Labor Amendment.** Proposed in 1924, an amendment that would have permitted Congress to regulate the work practices of persons under the age of 18 was rejected by vote of the legislature in 1925. Eight years later the issue returned, and the proposed amendment was ratified with near unanimous support in both bodies.

The legislature's rejection and later ratification of the proposed child labor amendment had little impact on the proposed amendment's ultimate fortunes: to date, that amendment remains at least ten states short of full ratification, and the substance of the amendment has been largely made irrelevant by subsequent U.S. Supreme Court case law.

## **Submission of Amendment to Voters**

With the exception of the state's ratification of the 21st amendment (repeal of prohibition), all ratification activity has occurred within the legislative process.

During the 1919 legislative session, a bill was introduced to submit ratification of the 18th amendment (prohibition) to the voters.<sup>9</sup> The bill was not enacted. Had it been enacted, its implementation would likely have been declared unconstitutional.<sup>10</sup>

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<sup>9</sup> See H.F. 31, 41st Leg., Reg. Sess. (Minn. 1919).

<sup>10</sup> *Hawke v. Smith*, 253 U.S. 221, 227 (1920); *State of Rhode Island v. Palmer* (The Prohibition Cases), 253 U.S. 350, 386 (1920).

## Part 2: Minnesota's Amendment Ratification History

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This part provides Minnesota legislative data and background on amendments that have been submitted to the states for ratification. The part is divided into two sections: amendments that have been ratified by the required three-fourths of states and are incorporated into the U.S. Constitution; and amendments that have not been ratified by three-fourths of states, and are not part of the U.S. Constitution.

### About the Data

Procedural data related to Minnesota's legislative activity was compiled using the official published journals of the House and Senate and, where available, other contemporaneous legislative records.

To improve clarity and readability, footnote citations within each amendment's ratification data are kept to a minimum. Full legislative journal citations are included in the appendix.

### Amendments Ratified by Three-Fourths of States

This section describes activity by the Minnesota Legislature on amendments that have been proposed by Congress and later were ratified by the required three-fourths of states. With the exception of the 18th amendment (prohibition), each of the amendments listed in this section are incorporated as an active part of the U.S. Constitution. The amendments are as follows:

- 1st through 12th Amendments: Bill of Rights; State Sovereignty; Electoral College
- 13th Amendment: Abolition of Slavery
- 14th Amendment: Citizenship, Equal Protection, and Due Process Rights
- 15th Amendment: Voting Rights Based on Race
- 16th Amendment: Income Tax
- 17th Amendment: Direct Election of Senators
- 18th Amendment: Prohibition
- 19th Amendment: Women's Suffrage
- 20th Amendment: Terms of Office, Presidential Succession
- 21st Amendment: Repeal of Prohibition
- 22nd Amendment: Presidential Term Limits
- 23rd Amendment: District of Columbia Electoral Rights
- 24th Amendment: Poll Taxes Prohibited
- 25th Amendment: Presidential Succession
- 26th Amendment: Voting Rights at Age 18
- 27th Amendment: Compensation for Members of Congress

## 1st through 12th Amendments: Bill of Rights, State Sovereignty, Electoral College

Amendments one through ten (Bill of Rights), and the 11th (State Sovereignty) and 12th (Electoral College) amendments were all proposed by Congress and ratified by a sufficient number of states prior to Minnesota's admission as a state in 1858: the Bill of Rights were fully ratified in 1791; the 11th amendment was fully ratified in 1795; and the 12th amendment was fully ratified in 1804.

While nothing in law prohibits Minnesota from acting to individually ratify these amendments if the legislature so chose, doing so would be a purely symbolic act. It also would likely be unnecessary given the conditions under which Minnesota was granted statehood. The act of Congress granting Minnesota admission as a state extended the jurisdiction of all federal laws (including the Constitution and ratified amendments) over the state's territory: "all the laws of the United States which are not locally inapplicable shall have the same force and effect within that State as in other States of the Union..."<sup>11</sup>

## 13th Amendment: Abolition of Slavery

*The 13th amendment abolishes slavery.*

### Ratification Data: 13th Amendment

Submission of Amendment to States	February 1, 1865
Final Ratification by Minnesota	February 23, 1865 <i>House Vote: 33-5 (2/8/1865)</i> <sup>12</sup> <i>Senate Vote: 17-1 (2/23/1865)</i>
Action by Minnesota Governor	No Record
Final Ratification by Three-Fourths of States	December 6, 1865

Minnesota was the 17th state to ratify what would become the 13th amendment. At the time it was proposed by Congress, 27 of 36 states were required to complete full ratification.

The 13th amendment represented Minnesota's first opportunity as a new state to participate in the constitutional amendment ratification process, and the proper method of doing so generated significant debate between the Minnesota House and the Minnesota Senate. Both bodies directed a relevant committee to study the issue and report back its findings.

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<sup>11</sup> See Act for the Admission of Minnesota into the Union, [ch. 31, 11 Stat. 285](#) (1858).

<sup>12</sup> It is unclear from the journal record whether this vote represents the House's final vote on ratification. The Journal of the House indicates a committee report adopted February 21, 1865, and the Journal of the Senate indicates receipt of a message from the House dated February 21, 1865, reporting the House's final passage of the bill. A vote total for these acts of the House are not provided in the journal. See Journal of the House, 7th Leg. (Minn. 1865), pg. 262 (Feb. 21, 1865), and Journal of the Senate, 7th Leg. (Minn. 1865), pg. 168 (Feb. 21, 1865).

The Senate's committee reported its belief that the power to ratify an amendment is derived from the U.S. Constitution, and that specific provisions in the Minnesota Constitution related to enactment of laws did not apply, including the need for a signature of the governor.<sup>13</sup>

The House's committee reported its belief that the legislature's approval of a joint resolution to ratify a proposed constitutional amendment amounts to the enactment of a law, and as a result, all constitutional provisions related to the process for enacting laws should apply—including the addition of the same “enacting clause” included in other acts of the legislature.<sup>14</sup>

The legislative record is unclear about how the differences as to form between the two bodies was finally resolved, though it appears from a report in the *St. Paul Press* newspaper that the ratification took the form of a concurrent resolution.<sup>15</sup> It does not appear that the ratification was presented to the governor for signature.

The *St. Paul Press* report also noted that Senator Daniel G. Shillock, of New Ulm—who cast the single vote against ratification in the Senate—explained his vote as a disagreement with the form of the ratification document, and not the substance of the amendment itself.<sup>16</sup>

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## 14th Amendment: Citizenship, Equal Protection, and Due Process Rights

*Among other items, the 14th amendment provides certain rights of citizenship, including due process and equal protection of the laws, and prohibits states from enacting laws to abridge the privileges or immunities of all citizens of the United States.*

### Ratification Data: 14th Amendment

Submission of Amendment to States	June 13, 1866
Final Ratification by Minnesota	January 17, 1867 <i>House Vote: 40-5 (1/17/1867)</i> <i>Senate Vote: 16-5 (1/17/1867)</i>
Action by Minnesota Governor	Approval, February 4, 1867
Final Ratification by Three-Fourths of States	July 1868

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<sup>13</sup> See Journal of the Senate, 7th Leg. (Minn. 1865), pgs. 133-134 (Feb. 15, 1865).

<sup>14</sup> See Journal of the House, 7th Leg. (Minn. 1865), pgs. 197-199 (Feb. 14, 1865).

<sup>15</sup> See Report on the Activities of the Legislature of Minnesota, *Anti-Slavery Amendment*, St. Paul Press, Feb. 24, 1865.

<sup>16</sup> *Id.*

Minnesota was the 13th state to ratify what would become the 14th amendment. At the time it was proposed by Congress, 28 of 37 states were required to complete full ratification. Disputed withdrawals of ratification by New York and Ohio leave the exact date of ratification unclear, but the amendment was proclaimed ratified by the U.S. Secretary of State and the U.S. Congress in July 1868.

In the Minnesota Senate, the final vote on ratification was expedited following a successful motion to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment. Consistent with the legislature's form of ratification of the 13th amendment, ratification of this amendment was styled as a "concurrent resolution."

### **15th Amendment: Voting Rights Based on Race**

*The 15th amendment prohibits citizens from being denied the right to vote on account of race, color, or previous condition of servitude.*

#### **Ratification Data: 15th Amendment**

Submission of Amendment to States	February 26, 1869
Final Ratification by Minnesota	January 13, 1870 <i>House Vote: 28-15 (1/13/1870)</i> <i>Senate Vote: 13-6 (1/12/1870)</i>
Action by Minnesota Governor	Approval, January 19, 1870
Final Ratification by Three-Fourths of States	February 1870

Minnesota was the 22nd state to ratify what would become the 15th amendment. At the time it was proposed by Congress, 28 of 37 states were required to complete full ratification. A disputed withdrawal of ratification by New York leaves the exact date of ratification unclear, but with or without New York's ratification, the amendment was ratified by three-fourths of states in February 1870.

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.



## 16th Amendment: Income Tax

*The 16th amendment permits Congress to adopt an income tax.*

### Ratification Data: 16th Amendment

Submission of Amendment to States	July 12, 1909
Final Ratification by Minnesota	June 11, 1912 <i>House Vote: 89-0 (6/6/1912)</i> <i>Senate Vote: 49-5 (6/11/1912)</i>
Action by Minnesota Governor	Approval, June 14, 1912
Final Ratification by Three-Fourths of States	February 3, 1913

Minnesota was the 33rd state to ratify what would become the 16th amendment, waiting nearly three years from the time the amendment was submitted to the states to act on the proposal. At the time it was proposed by Congress, 36 of 48 states were required to complete full ratification.

Minnesota's ratification of the 16th amendment occurred at an active time for constitutional amendment issues in the legislature: the legislature had ratified what would become the 17th amendment (direct election of senators) the day prior to its ratification of the 16th amendment. Both ratifications occurred at an extra session of the legislature called by the governor; included among the governor's stated reasons for calling the extra session was the legislature's prior lack of action on the proposals.

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

Contemporary records indicate that Minnesota did not submit a complete set of paperwork to the U.S. Secretary of State following its ratification of the 16th amendment: Instead of submitting an original copy of the legislature's resolution, the Minnesota Secretary of State merely informed the U.S. Secretary of State by letter that the legislature had ratified the amendment. This notice was consistent with directions to Minnesota's secretary of state contained in a state law that had been enacted at the same legislative session during which the 16th (and 17th) amendments were ratified.<sup>17</sup>

Despite some apparent confusion, the U.S. Secretary of State ultimately accepted the letter as meeting the requirements for official notice as provided by law, and Minnesota's approval was named in the final proclamation declaring the amendment fully ratified.<sup>18</sup>

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<sup>17</sup> See [Laws 1912, chapter 13](#).

<sup>18</sup> 37 Stat. 1785 (1913). See also Office of the Solicitor, United States Department of State, "Ratification of the 16th Amendment to the Constitution of the United States," Memorandum (February 15, 1913).

## 17th Amendment: Direct Election of Senators

*The 17th amendment provides a procedure for election of United States senators by direct vote of the people. Prior to adoption of this amendment, senators were elected by each state's legislature.*

### Ratification Data: 17th Amendment

Submission of Amendment to States	May 13, 1912
Final Ratification by Minnesota	June 10, 1912 <i>House Vote: 90-0 (6/6/1912)</i> <i>Senate Vote: 51-0 (6/10/1912)</i>
Action by Minnesota Governor	Approval, June 14, 1912
Final Ratification by Three-Fourths of States	April 8, 1913

Minnesota was the third state to ratify what would become the 17th amendment, less than one month after it was submitted to the states by Congress. At the time it was proposed to the states, 36 of 48 states were required to complete full ratification.

The direct election of senators was not a new issue to Minnesota at the time it ratified the amendment: in 1893 and 1895, the legislature submitted identical requests to Congress to propose such an amendment, and after Congress failed to act on the issue, in 1901 the legislature submitted a new request, in the form of an application for an Article V convention on the topic.

Minnesota's ratification of the 17th amendment occurred at an active time for constitutional amendment issues in the legislature: the legislature ratified this amendment the day prior to its ratification of the 16th amendment (income tax). Both ratifications occurred at an extra session of the legislature called by the governor; included among the governor's stated reasons for calling the extra session was the legislature's prior lack of action on the proposals.

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## 18th Amendment: Prohibition

*The 18th amendment prohibits the manufacture, sale, or transportation of intoxicating liquors within the United States.*

### Ratification Data: 18th Amendment

Submission of Amendment to States	December 18, 1917
Final Ratification by Minnesota	January 17, 1919 <i>House Vote: 92-36 (1/17/1919)</i> <i>Senate Vote: 48-11 (1/16/1919)</i>
Action by Minnesota Governor	Approval, January 22, 1919
Final Ratification by Three-Fourths of States	January 16, 1919

Minnesota was the 39th state to ratify what had already become the 18th amendment. At the time it was proposed by Congress, 36 of 48 states were required to complete full ratification.

Though final adoption of the amendment had not yet been formally proclaimed by the Secretary of State, the minimum number of states required for ratification was reached the day prior to Minnesota's final action on the proposal: five states completed their ratifications on January 16, 1919. The Minnesota Senate also ratified the proposal on January 16, but the message was not received by the Minnesota House until the following day. As a result, Minnesota's ratification—on January 17, 1919—became largely a symbolic gesture (but the legislature may not have been aware of it at the time).

Minnesota's was one of many legislatures across the country acting on the proposed amendment at roughly the same time—in all, 27 of the necessary 36 state legislatures completed their ratifications in the month of January 1919.

As part of the ratification debate during the 1919 legislative session, one bill introduced in the House of Representatives proposed bypassing legislative ratification of the amendment, and instead, submitting the amendment to the voters as a ballot question. The bill was not enacted, and there are no surviving records to indicate whether the bill (H.F. 31) ever received serious consideration.<sup>19</sup>

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

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<sup>19</sup> Had this bill been enacted, it likely would have been declared unconstitutional. See *Hawke v. Smith*, 253 U.S. 221, 227 (1920); *State of Rhode Island v. Palmer* (The Prohibition Cases), 253 U.S. 350, 386 (1920). For more detail on submission of ratifications to the voters, see the companion House Research Department Publication *United States Constitutional Amendment Process: Legal Principles for State Legislators*.

## 19th Amendment: Women's Suffrage

*The 19th amendment prohibits denial of the right to vote on account of a person's sex.*

### Ratification Data: 19th Amendment

Submission of Amendment to States	June 4, 1919
Final Ratification by Minnesota	September 8, 1919 <i>House Vote: 120-6 (9/8/1919)</i> <i>Senate Vote: 60-5 (9/8/1919)</i>
Action by Minnesota Governor	Approval, September 11, 1919
Final Ratification by Three-Fourths of States	August 18, 1920

Minnesota was the 12th state to ratify what would become the 19th amendment. At the time it was proposed by Congress, 36 of 48 states were required to complete full ratification.

Minnesota's ratification occurred at an extra session of the legislature called by the governor; included among the stated reasons for calling the extra session was the governor's desire that the legislature act on the amendment proposal—which had been submitted to the states slightly more than three months earlier, but just after the legislature had adjourned its regular session for the year.

During the legislature's regular session, it had adopted a concurrent resolution directed to the U.S. Senate, requesting that the Senate approve the amendment proposal for submission to the states. By that time, the U.S. House had already taken action to approve the proposed amendment. The concurrent resolution is described in further detail in Part 4. In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## 20th Amendment: Terms of Office, Presidential Succession

*The 20th amendment establishes the date and time that terms of office begin for the President and for the Congress. It also establishes procedures for presidential succession.*

### Ratification Data: 20th Amendment

Submission of Amendment to States	March 2, 1932
Final Ratification by Minnesota	January 12, 1933 <i>House Vote: 118-0 (1/12/1933)</i> <i>Senate Vote: 62-0 (1/12/1933)</i>
Action by Minnesota Governor	Approval, January 16, 1933
Final Ratification by Three-Fourths of States	January 23, 1933

Minnesota was the 21st state to ratify what would become the 20th amendment. At the time it was proposed by Congress, 36 of 48 states were required to complete full ratification.

This amendment is one of only four proposed amendments to be ratified by the Minnesota Legislature without a single dissenting vote.

In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## 21st Amendment: Repeal of Prohibition

*The 21st amendment repeals the 18th amendment (prohibition).*

### Ratification Data: 21st Amendment

Submission of Amendment to States	February 20, 1933
Final Ratification by Minnesota	October 10, 1933 <i>Vote by State Convention: 21-0</i>
Action by Minnesota Governor	None
Final Ratification by Three-Fourths of States	December 5, 1933

Minnesota's state convention was the 26th convention to ratify what would become the 21st amendment. At the time it was proposed by Congress, 36 of 48 states were required to complete full ratification.

To date, this amendment represents the only amendment proposed by Congress that required ratification through a convention in each state, rather than ratification by each state's legislature. However, the Minnesota Legislature did maintain a role in the convention process: it enacted laws related to the formation and operation of the convention during the 1933 regular legislative session.

**Legislative action to design a ratifying convention.** The convention process approved by the legislature required a convention of 21 at-large delegates. Delegates were to be chosen by the voters at a special election.

To appear on the ballot as a delegate nominee, potential delegates were required to be nominated by a petition signed by at least 100 voters. Delegate candidates were grouped into two categories: those who supported ratification of the proposed amendment, and those who did not support ratification. The names of the 21 delegate nominees within each group who received the most petition signatures were designated to appear on the ballot.

The special election ballot listed the delegate nominees according to their group: those "for repeal" (in favor of amendment ratification) and "against repeal" (not in favor of amendment

ratification). Except for the position of each group of nominees on the amendment proposal, no other partisan designation, affiliation, or preference was listed on the ballot. Voters were not permitted to cast votes for individual nominees, but instead cast one vote: either for the group of nominees in favor of repeal of prohibition, or for the group of nominees against repeal of prohibition.

While final passage of the convention structure was not particularly controversial—the bill was approved by a vote of 102-23 in the House, and a vote of 62-0 in the Senate—each body did consider several amendments to the final law.

In the Senate, the following floor amendments were offered by a single member, all of which failed or were withdrawn after being presented:

- increase the number of convention delegates from 21 to 67, apportioned by state senate district and elected according to the state's rules for electing senators, rather than the rules for electing presidential electors (failed 18-48)
- requiring a primary election for delegate nominees to be conducted simultaneously with the primary election for state senators, and permitting voters to vote for individual delegates, rather than voting by group (withdrawn)
- permitting judicial review of the special election through an election contest (withdrawn)
- requiring the convention to meet on a Tuesday (withdrawn)
- specifying that a majority vote of the convention delegates is required for state ratification of the amendment (withdrawn)

An amendment to require the special election to be conducted on October 17, 1933, was approved. The Senate approved its final version of the bill March 29, 1933.

In the House, the following floor amendments were offered by several members, all of which failed:

- require the election of delegates to occur simultaneously with the state's general election (failed 46-67)
- require the election of delegates to occur simultaneously with the state's primary election (failed 61-66)
- eliminate the compensation and travel allowance for delegates (failed, with no recorded vote)
- voiding a delegate's vote, if the delegate fails to cast it consistently with the delegate's publicly stated position on the amendment (failed 42-78)
- providing a felony penalty, if a "for repeal" delegate votes against ratification, and a gross misdemeanor penalty, if an "against repeal" delegate votes in favor of ratification (failed, with no recorded vote)

House amendments to move the date of the special election from October to September of 1933, and a decrease in the allotted pay for delegates from \$10 per day to \$5 per day, were approved. The House adopted its final version of the bill April 6, 1933.

**Activities of the ratifying convention.** The special election to select delegates to the convention was conducted September 12, 1933. The delegate nominees who supported repeal of prohibition prevailed and became the state's convention delegates. By law, elected delegates were allotted \$5 per day for attendance at the convention, along with a five-cent per-mile allowance for travel expenses to and from St. Paul.

The convention met for one day—October 10, 1933—at the State Capitol in St. Paul. The convention was called to order by the governor, who presided until the convention elected a president.

The convention delegates reviewed Congress's amendment proposal, and unanimously approved ratification. A certificate of the convention's action was submitted to Minnesota's Secretary of State, with instructions to transmit the certificate to the U.S. Secretary of State according to the procedures provided by law.

## 22nd Amendment: Presidential Term Limits

*The 22nd amendment establishes term limits for President of the United States.*

### Ratification Data: 22nd Amendment

Submission of Amendment to States	March 24, 1947
Final Ratification by Minnesota	February 27, 1951 <i>House Vote: 80-43 (2/27/1951)</i> <i>Senate Vote: 39-27 (2/13/1951)</i>
Action by Minnesota Governor	Deposited with Secretary of State, March 2, 1951
Final Ratification by Three-Fourths of States	February 27, 1951

Minnesota was the 36th state to ratify what would become the 22nd amendment. At the time the amendment was proposed by Congress, 36 of 48 states were required to complete full ratification, making Minnesota's the final ratification necessary to incorporate the amendment as part of the U.S. Constitution.

Prior to final ratification, the amendment proposal was heard by the Rules Committee in the House and both the Rules and Legislative Expense Committee and the Judiciary Committee in the Senate.

Late February 1951 was an active period for ratification by states: between February 12 and February 28 of that year, ten states completed the ratification process. Minnesota's ratification

followed a day after ratifications in Utah and Nevada, and preceded ratification in North Carolina by one day.

### **23rd Amendment: District of Columbia Electoral Rights**

*The 23rd amendment grants the District of Columbia the right to participate in the Electoral College.*

#### **Ratification Data: 23rd Amendment**

Submission of Amendment to States	June 16, 1960
Final Ratification by Minnesota	January 31, 1961 <i>House Vote: 123-0 (1/31/1961)</i> <i>Senate Vote: 58-0 (1/17/1961)</i>
Action by Minnesota Governor	Approval, February 6, 1961
Final Ratification by Three-Fourths of States	March 29, 1961

Minnesota was the 10th state to ratify what would become the 23rd amendment. At the time it was proposed by Congress, 38 of 50 states were required to complete full ratification.

Prior to final ratification, the amendment proposal was heard by the Elections Committee in the House and the Elections and Reapportionment Committee in the Senate.

### **24th Amendment: Poll Taxes Prohibited**

*The 24th amendment prohibits states from adopting a poll tax or other tax as a requisite to voting for federal offices.*

#### **Ratification Data: 24th Amendment**

Submission of Amendment to States	September 14, 1962
Final Ratification by Minnesota	February 27, 1963 <i>House Vote: 121-0 (2/19/1963)</i> <i>Senate Vote: 59-0 (2/27/1963)</i>
Action by Minnesota Governor	Approval, February 6, 1963
Final Ratification by Three-Fourths of States	January 23, 1964

Minnesota was the 15th state to ratify what would become the 24th amendment. At the time it was proposed by Congress, 38 of 50 states were required to complete full ratification.

Prior to final ratification, the amendment proposal was heard by Judiciary Committee in the House and the Rules and Legislative Expense Committee in the Senate.



## 25th Amendment: Presidential Succession

*The 25th amendment establishes procedures for succession in the event of the death, resignation, or temporary disability of a president.*

### Ratification Data: 25th Amendment

Submission of Amendment to States	July 6, 1965
Final Ratification by Minnesota	February 10, 1967 <i>House Vote: 124-7 (1/17/1967)</i> <i>Senate Vote: 64-0 (2/10/1967)</i>
Action by Minnesota Governor	Approval, February 13, 1967
Final Ratification by Three-Fourths of States	February 10, 1967

Minnesota and Nevada both ratified this amendment on the same date: February 10, 1967. At the time it was proposed by Congress, 38 of 50 states were required to complete full ratification.

Though the time of day that the ratifications occurred is not clear, Nevada and Minnesota represent the 37th and 38th state ratifications, sharing the distinction of ensuring the amendment's incorporation as an operable provision of the U.S. Constitution.

Prior to final ratification in Minnesota, the amendment proposal was heard in the Judiciary Committee in the House and the Elections and Reapportionment Committee in the Senate. In the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## 26th Amendment: Voting Rights at Age 18

*The 26th amendment prohibits denial, on the basis of age, of the right to vote of citizens who are at least 18 years of age.*

### Ratification Data: 26th Amendment

Submission of Amendment to States	March 23, 1971
Final Ratification by Minnesota	March 23, 1971 <i>House Vote: 126-3 (3/23/1971)</i> <i>Senate Vote: 59-0 (3/23/1971)</i>
Action by Minnesota Governor	Approval, March 23, 1971
Final Ratification by Three-Fourths of States	July 1, 1971

Minnesota was one of five states to ratify what would become the 26th amendment on the same day that the proposed amendment was submitted to the states by Congress. At the time it was proposed, 38 of 50 states were required to complete full ratification.

It does not appear that the proposal was heard by any legislative committees prior to final ratification in Minnesota. In both the House and the Senate, the final vote on ratification was expedited following successful motions to suspend the normal rules of the legislative process for purposes of acting on the proposed amendment.

## **27th Amendment: Compensation for Members of Congress**

*The 27th amendment prohibits laws providing for a compensation increase for members of Congress unless an election of the House of Representatives occurs prior to the law taking effect.*

### **Ratification Data: 27th Amendment**

Submission of Amendment to States	September 25, 1789
Final Ratification by Minnesota	May 22, 1989 <i>House Vote: 126-2 (5/22/1989)</i> <i>Senate Vote: 63-4 (5/19/1989)</i>
Action by Minnesota Governor	Deposited with Secretary of State, May 26, 1989
Final Ratification by Three-Fourths of States	May 7, 1992

Minnesota was the 31st state to ratify this amendment. At the time it was proposed by Congress in 1789, 11 of 14 states were required to complete full ratification. However, between 1789 and 1791 only six states ratified the amendment. As the country expanded over the successive two centuries, the number of ratifications required increased to the current 38 of 50 states.

Prior to final ratification in Minnesota, the amendment proposal was heard by the Government Operations Committee in the House and the Rules and Administration Committee in the Senate.

## Amendments Proposed but Not Ratified by Three-Fourths of States

This section describes activity by the Minnesota Legislature on amendments that have been proposed by Congress, but have not been (or were not) ratified by the required three-fourths of states. The amendments listed in this section are not, and have never been, an active part of the Constitution. The proposed amendments dealt with the following topics:

- Congressional apportionment
- Titles of nobility
- Prohibiting the elimination of slavery
- Child labor
- Equal rights
- District of Columbia representation

### Proposed Congressional Apportionment Amendment

*“After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.”*

#### Ratification Data: Congressional Apportionment Amendment

Submission of Amendment to States	September 25, 1789
Final Ratification by Minnesota	None
Action by Minnesota Governor	N/A
Final Ratification by Three-Fourths of States	N/A

Originally proposed as part of a package of amendments that later became the Bill of Rights, this proposed amendment would regulate the number of members of the U.S. House of Representatives, based on population. According to the formula provided in the proposed amendment, today's U.S. House of Representatives would exceed 6,600 members.

It appears the last state legislative activity on this amendment occurred in Kentucky, in 1792.

There are no surviving records to indicate that the Minnesota Legislature has ever considered ratification of this amendment. The proposed amendment did not include a time limit for ratification, so it technically remains pending absent further action by Congress. The amendment remains well short of the necessary 38 of 50 states that would be required for ratification today.

## Proposed Titles of Nobility Amendment

*“If any citizen of the United States shall accept, claim, receive or retain, any title of nobility or honour, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.”*

### Ratification Data: Titles of Nobility Amendment

Submission of Amendment to States	May 1, 1810
Final Ratification by Minnesota	None
Action by Minnesota Governor	N/A
Final Ratification by Three-Fourths of States	N/A

This proposed amendment would eliminate United States citizenship, and associated rights of citizenship, from any person who accepts a title of nobility or other similar benefit from a foreign government.

It appears the last state legislative activity on this amendment occurred in New Hampshire, in 1812.

There are no surviving records to indicate that the Minnesota Legislature has ever considered ratification of this amendment. The proposed amendment did not include a time limit for ratification, so it technically remains pending absent further action by Congress. The amendment remains well short of the necessary 38 of 50 states that would be required for ratification today.

## Proposed Amendment Prohibiting the Elimination of Slavery by Constitutional Amendment

*“No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State.”*

### Ratification Data: Prohibiting Elimination of Slavery Amendment

Submission of Amendment to States	March 2, 1861
Final Ratification by Minnesota	None
Action by Minnesota Governor	N/A
Final Ratification by Three-Fourths of States	N/A

This proposed amendment would prohibit any future amendment to the constitution that allowed for the abolition of, or interference with, a state's "domestic institutions." At the time it was proposed, the most prominent domestic institution in some states was the institution of slavery.

Commonly referred to as the "Corwin Amendment," after one of the amendment's sponsors, it appears the last state legislative action on this amendment occurred in Illinois, in 1862. Of the three states that ratified the amendment, Ohio (in 1864) and Maryland (in 2014) have since taken steps to rescind their ratifications.<sup>20</sup> The legal validity of Illinois' ratification is subject to legal dispute.

There are no surviving records to indicate that the Minnesota Legislature has ever considered ratification of this amendment. The proposed amendment did not include a time limit for ratification, so it technically remains pending absent further action by Congress, but the end of the Civil War and adoption of the 13th amendment make the proposal moot in today's context. The amendment remains well short of the necessary 38 of 50 states that would be required for ratification.

## Proposed Child Labor Amendment

*"Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.*

*Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress."*

### Ratification Data: Child Labor Amendment

Submission of Amendment to States	June 2, 1924
Final Ratification by Minnesota	December 14, 1933 <i>House Vote: 103-1 (12/13/1933)</i> <i>Senate Vote: 51-1 (12/14/1933)</i>
Action by Minnesota Governor	Approval, December 15, 1933
Final Ratification by Three-Fourths of States	N/A

This proposed amendment grants Congress the power to enact laws regulating the work of persons under the age of 18.

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<sup>20</sup> For more detail on the legal issues surrounding a state's ability to rescind a ratification, see the House Research Department publication [United States Constitutional Amendment Process: Legal Principles for State Legislators](#).

The Minnesota Legislature has acted on this proposed amendment twice: in 1925, it approved a joint resolution rejecting the amendment,<sup>21</sup> but in 1933 the legislature returned to the amendment again. During the 1933 regular session, the House ratified the amendment by a vote of 84-36, but the Senate failed to act.<sup>22</sup> The issue reappeared in an extra session of the legislature later that year, which resulted in the amendment's ratification with near-unanimous support in both chambers.

Minnesota was one of several states to initially reject this amendment in the 1920s, only to return to the issue and ratify it the following decade. This practice generated a legal challenge to the constitutionality of a state's rejection and later ratification, which resulted in *Coleman v. Miller*,<sup>23</sup> a case that remains one of the major standing decisions of the U.S. Supreme Court that informs the operation of the constitutional amendment process.

It appears that the last legislative activity on this amendment occurred in Kansas, in 1937. The proposed amendment did not include a time limit for ratification, so it technically remains pending absent further action by Congress. To date, 28 states have ratified the amendment, short of the necessary 38 of 50 states that would be required for ratification today.

The substance of the amendment has been addressed by other means: in *United States v. Darby Lumber Co.*,<sup>24</sup> the U.S. Supreme Court reviewed Congress's enactment of the Fair Labor Standards Act of 1938, and effectively held that the constitution in its current form already grants the powers the amendment seeks to provide.

## Proposed Equal Rights Amendment

*"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.*

*Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.*

*Section 3. This amendment shall take effect two years after the date of ratification."*

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<sup>21</sup> See H.F. 664, 44th Leg. (Minn. 1925), [Minnesota Laws 1925, Joint Resolution No. 13](#).

<sup>22</sup> See H.F. 477, 48th Leg. (Minn. 1933); Journal of the House, 44th Leg. (Minn. 1933), pg. 532 (Feb. 17, 1933).

<sup>23</sup> *Coleman v. Miller*, [307 U.S. 433](#) (1939). The *Coleman* decision holds that establishing a reasonable deadline for ratification of an amendment is a power exclusively reserved to Congress, and a decision about whether to specify a deadline is a "political question" that is not subject to judicial review. For more detailed discussion of the *Coleman* decision, see the House Research Department publication [United States Constitutional Amendment Process: Legal Principles for State Legislators](#).

<sup>24</sup> *United States v. Darby Lumber Co.*, [312 U.S. 100](#) (1941).

### **Ratification Data: Equal Rights Amendment**

Submission of Amendment to States	March 22, 1972
Final Ratification by Minnesota	February 8, 1973 <i>House Vote: 104-28 (1/22/1973)</i> <i>Senate Vote: 48-18 (2/8/1973)</i>
Action by Minnesota Governor	Approval, February 12, 1973
Final Ratification by Three-Fourths of States	N/A

This proposed amendment prohibits state and federal governments from denying or abridging rights granted by law on the basis of a person's sex.

In 1949, the Minnesota Legislature was one of the first states to request that Congress propose a version of the Equal Rights Amendment, and in 1972 Minnesota became the 26th state to ratify the amendment.

In the intervening years since the amendment was proposed, several states that initially ratified the amendment have taken steps to rescind their ratification.

When Congress first proposed the amendment, a seven-year deadline for final ratification was included. The deadline was later extended by Congress for three additional years. Though the legal significance of the deadline is subject to some dispute by amendment advocates, the amendment remains short of the necessary 38 of 50 states that would be required for ratification. Absent further action by Congress, this proposed amendment has failed.

### **Proposed District of Columbia Representation Amendment**

*“Section 1. For purposes of representation in the Congress, election of the President and Vice President, and Article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.*

*Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.*

*Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.*

*Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.”*

**Ratification Data: District of Columbia Representation Amendment**

Submission of Amendment to States	August 22, 1978
Final Ratification by Minnesota	March 19, 1979 <i>House Vote: 68-66 (3/8/1979)</i> <i>Senate Vote: 37-29 (3/19/1979)</i>
Action by Minnesota Governor	Approval, March 28, 1979
Final Ratification by Three-Fourths of States	N/A

This proposed amendment grants full voting and representation rights to the District of Columbia in Congress, in the Electoral College, and in the process for amending the constitution.

Minnesota was the fourth state to ratify this amendment.

The vote in both chambers of the legislature was contentious, but particularly so in the House of Representatives. In the House, the ratification was brought up for a final vote on three separate days. During the first two days (February 26, 1979, and March 5, 1979), the issue was brought for discussion but never received a final vote. On March 8, 1979, the question of ratification was brought for discussion twice: early in the day, a final vote was taken and ratification failed by a vote of 66-68. Later that same day, the vote was reconsidered, with a reversal of the result: on the reconsidered vote, ratification was approved 68-66.

When Congress first proposed the amendment, a seven-year deadline for ratification was included. That time period passed, with the amendment short of the necessary 38 of 50 states that would have been required for ratification. Absent further action by Congress, this proposed amendment has failed.



## Part 3: Minnesota's Article V Convention Applications

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Among the rights of state legislatures in Article V is the right to apply for a convention to propose amendments for ratification. An Article V convention would bypass the need for Congress's approval of the substance of a proposed amendment, but would likely require congressional action to establish and organize the convention's structure.

A convention is required by Article V upon application of two-thirds of state legislatures. To date, a convention has never occurred.

A full accounting of the total number of Article V convention applications that have been submitted by the states is beyond the scope of this publication. Over the course of Minnesota's statehood, the legislature has submitted three applications for a convention—those applications are described in this section.

Minnesota's three resolutions applying for a convention have followed the normal process for bills, and have been presented to the governor. In each case, the resolution was approved.

### 1901: Election of U.S. Senators by Popular Vote

This application requested an Article V convention for the purpose of making U.S. senators subject to direct vote of the people. At the time, U.S. senators were elected by state legislatures.

#### Article V Application Data: Direct Election of Senators (1901)

Final Application by Minnesota	February 2, 1901 <i>House Vote: 88-0 (2/2/1901)</i> <i>Senate Vote: 56-0 (1/31/1901)</i>
Action by Minnesota Governor	Approval, February 9, 1901

This Article V application, formatted as a joint resolution, follows separate resolutions submitted to Congress by the Minnesota Legislature in 1893 and 1895 requesting that Congress propose an amendment to the states on its own initiative.

Though a convention was never called in response to Minnesota's application, the issue was addressed following ratification of the 17th amendment in 1919.

### 1909: Prohibition of Polygamy

This application requested an Article V convention for the purpose of prohibiting "polygamy" and "polygamous habitation."

As part of the application, the legislature noted “a demand for the more effectual prohibition [of polygamy] by placing the subject under federal jurisdiction and control, at the same time reserving to each state the right to make and enforce its own laws relating to marriage and divorce...”<sup>25</sup>

The content of the application suggests it may have been motivated by an investigation of the issue that had been conducted by the U.S. Senate.

#### **Article V Application Data: Prohibition of Polygamy**

Final Application by Minnesota	April 2, 1909 <i>House Vote: 62-0 (4/2/1909)</i> <i>Senate Vote: 37-0 (3/24/1909)</i>
Action by Minnesota Governor	Approval, April 8, 1909

This Article V application, formatted as a joint resolution, appears to be the only resolution of the legislature on the topic of polygamy. The application did not result in a convention.

#### **1965: State Legislative Apportionment on Basis Other Than Population**

This application requested a convention for the purpose of allowing bicameral state legislatures to apportion one body of the legislature on a basis other than population. The resolution included the exact language of the amendment to be proposed.

The application is likely a response to a ruling of the U.S. Supreme Court a year earlier: in 1964, the court held that both bodies of a bicameral state legislature must be apportioned on the basis of population.<sup>26</sup>

#### **Article V Application Data: State Legislative Apportionment**

Final Application by Minnesota	May 6, 1965 <i>House Vote: 91-40 (5/5/1965)</i> <i>Senate Vote: 38-17 (5/6/1965)</i>
Action by Minnesota Governor	Approval, May 13, 1965

This Article V application, formatted as a memorial resolution, appears to be the only resolution of the legislature on this topic. The application did not result in a constitutional convention.

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<sup>25</sup> See [Minnesota Laws 1909, Joint Resolution No. 17](#).

<sup>26</sup> See *Reynolds v. Sims*, 377 U.S. 533 (1964). In October 2015, the U.S. Supreme Court heard arguments in a case affecting the powers of a state to determine the population count used for purposes of legislative districting. The Court's opinion was issued in April 2016. See *Evenwell v. Abbott*, 136 S.Ct. 1120 (2016).

The legislative debate between the House and Senate on adoption of this application became somewhat contentious, based on one word in the resolution: the original House bill applied for a constitutional convention for “the purpose” of proposing a constitutional amendment related to apportionment. Likely reflecting concern that a constitutional convention was unprecedented and could result in many other amendment proposals, the Senate’s action on the bill included an amendment to clarify the application’s intent for a constitutional convention for “the *single* purpose” of proposing an amendment related to apportionment.<sup>27</sup>

In taking what it believed to be a final vote on the resolution, the House initially accepted the Senate’s amendment and approved the resolution. But immediately following approval, a motion was made to reconsider adoption and send the bill to a conference committee. A conference committee was convened, and nearly a month later the House and Senate conferees agreed to include the phrase “single purpose” in the final version of the resolution, and the resolution was approved.<sup>28</sup>

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<sup>27</sup> Compare H.F. 522, 64th Leg. (Minn. 1965), as introduced, with H.F. 522, 64th Leg. (Minn. 1965), the first engrossment.

<sup>28</sup> For procedural references, see Journal of the House, 64th Leg. (Minn. 1965), pg. 1128-1129.

## Part 4: Resolutions to Congress Requesting Proposal of a Constitutional Amendment

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In addition to resolutions that formally apply for a convention to propose amendments, the Minnesota Legislature also has a history of expressing its desire for Congress to propose amendments to the states on Congress's own initiative. These requests are typically adopted by the legislature in the form of a resolution encouraging congressional action.

While the Article V constitutional amendment process does not contemplate legislative requests in this way, the adoption of a resolution is a common method for the legislature to formally communicate with Congress. A resolution expresses the legislature's desire for action on issues that are outside the scope of its jurisdiction; while often used for constitutional amendment requests, the content of a resolution is not limited to constitutional amendment issues only.

Unlike Article V convention requests, Congress is not constitutionally obligated to respond to a request for an amendment made by resolution of a state legislature, regardless of the number of state legislatures making the request.

**Presentment to governor.** Because these resolutions are not a formal Article V function, approval of the governor is likely required in the same manner as resolutions on other topics—though there does not appear to be any court ruling or other authoritative guidance on this issue. In all but one instance (the 1973 resolution related to rights at conception), the governor has approved the resolution after adoption by the legislature.

In the 1973 case, it appears that the governor did not return the resolution to the legislature, but instead deposited the resolution with the Secretary of State—without an indication of approval, but similarly without following the normal procedure for returning a vetoed bill to its house of origin.

### 1893 and 1895: Election of U.S. Senators by Popular Vote

The Minnesota Legislature submitted two resolutions requesting an amendment on the direct election of U.S. senators (1893 and 1895) followed by an Article V convention request (1901).

The 17th amendment, providing for direct election of senators, was fully ratified in 1913.

#### 1893 Resolution Data

Adoption of Resolution by Legislature	February 28, 1893 <i>House Vote: 75-0 (2/8/1893)</i> <i>Senate Vote: 38-0 (2/28/1893)</i>
Action by Minnesota Governor	Approval, March 4, 1893

The 1893 resolution, styled as a “joint memorial,” was expedited following a successful motion to suspend the normal rules of the legislative process in the House for purposes of adopting the resolution.

In the Senate, the 1893 resolution was heard in the Committee on Federal Relations.

#### 1895 Resolution Data

Adoption of Resolution by Legislature	January 30, 1895 <i>House Vote: 98-0 (1/29/1895)</i> <i>Senate Vote: 42-0 (1/30/1895)</i>
Action by Minnesota Governor	Approval, February 5, 1895

The 1895 resolution, styled as a “joint memorial,” was expedited following successful motions in both the House and the Senate to suspend the normal rules of the legislative process for purposes of adopting the resolution.

### 1901: Regulation of Trusts and Monopolies

This resolution requested an amendment “conferring power in the Congress to appropriate legislate to define, regulate, prohibit or dissolve trusts, monopolies, and combinations whether existing in corporate or other form...”

Congress has not proposed an amendment to the states on this topic.

#### 1901 Resolution Data

Adoption of Resolution by Legislature	February 16, 1901 <i>House Vote: 85-1 (2/4/1901)</i> <i>Senate Vote: 35-1 (2/16/1901)</i>
Action by Minnesota Governor	Approval, February 25, 1901

The 1901 resolution was styled as a memorial resolution. In the Senate, it was reviewed and approved by the Judiciary Committee.

### 1919: Expansion of Voting Rights to Women

This resolution was directed specifically to the U.S. Senate. It encouraged the Senate to enact the women’s suffrage amendment proposal that had already been approved by the House of Representatives.

The 19th Amendment, granting voting rights to women, was fully ratified in 1920.

### 1919 Resolution Data

Adoption of Resolution by Legislature	January 23, 1919 <i>House Vote: 100-28 (1/22/1919)</i> <i>Senate Vote: 49-7 (1/23/1919)</i>
Action by Minnesota Governor	Approval, January 24, 1919

The 1919 resolution, styled as a concurrent resolution, was expedited following successful motions in both the House and the Senate to suspend the normal rules of the legislative process for purposes of adopting the resolution. During the House debate, a member made a motion on “the previous question,” in a further attempt to expedite the proceedings.

Prior to the floor debate, this resolution was heard by the House Elections Committee.

### 1933 and 1939: Prohibit Tax-Exempt Securities

In the Great Depression era, the Minnesota Legislature submitted two requests to Congress for an amendment to prohibit the issuance of tax-exempt securities (1933 and 1939).

In both years, the resolution described the practice as an “intolerable burden of taxation ... upon those least able to pay” and that the “situation of the taxpayers throughout the United States has assumed the proportions of a national calamity imperatively requiring immediate action.” The resolution included the exact text of the constitutional amendment the legislature hoped to ratify.

Congress has not proposed an amendment to the states on this topic.

### 1933 Resolution Data

Adoption of Resolution by Legislature	April 18, 1933 <i>House Vote: 98-0 (4/8/1933)</i> <i>Senate Vote: 47-1 (4/18/1933)</i>
Action by Minnesota Governor	Approval, April 21, 1933

The 1933 resolution, styled as a concurrent resolution, was expedited following a successful motion to suspend the normal rules of the legislative process in the House for purposes of adopting the resolution.

In the Senate, the 1933 resolution was referred to the Tax Committee for review, but was later withdrawn from that committee.

### 1939 Resolution Data

Adoption of Resolution by Legislature	March 6, 1939 <i>House Vote: 92-0 (3/6/1939)</i> <i>Senate Vote: 54-0 (2/8/1939)</i>
Action by Minnesota Governor	Approval, March 9, 1939

The 1939 resolution was styled as a concurrent resolution.

In both the House and the Senate, the 1939 resolution was reviewed and approved by each body's respective Tax and Tax Laws Committee.

### 1949: Equal Rights Amendment

Representing one of the earliest recorded legislative actions in favor of a proposed Equal Rights Amendment, this resolution proposed the exact text of the constitutional amendment the legislature hoped to ratify.

The substance of the text proposed in the legislature's resolution is nearly identical to that ultimately submitted to the states by Congress in 1972. Though the amendment failed to be fully ratified by three-fourths of states, Minnesota ratified Congress's proposed amendment in 1973.

### 1949 Resolution Data

Adoption of Resolution by Legislature	April 20, 1949 <i>House Vote: 81-1 (4/18/1949)</i> <i>Senate Vote: 48-1 (4/20/1949)</i>
Action by Minnesota Governor	Approval, April 25, 1949

The 1949 resolution, styled as a concurrent resolution, was expedited following a successful motion to suspend the normal rules of the legislative process in the Senate for purposes of adopting the resolution.

In the House, the 1949 resolution was reviewed and approved by the Judiciary Committee.

### 1973: Rights for Persons Beginning at Conception

A direct response to the U.S. Supreme Court's *Roe v. Wade*<sup>29</sup> decision, this resolution requested a constitutional amendment to grant life, liberty, and property rights for persons from conception until natural death, with exceptions for medical operations necessary to save the life of a mother.

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<sup>29</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

Congress has not proposed an amendment to the states on this topic.

### 1973 Resolution Data

Adoption of Resolution by Legislature	April 28, 1973 <i>House Vote: 98-21 (4/13/1973)</i> <i>Senate Vote: 51-12 (4/28/1973)</i>
Action by Minnesota Governor	Deposited with Secretary of State, May 8, 1973

The 1973 resolution was styled as a memorial resolution.

In the House, the 1973 resolution was reviewed and approved by the Health and Welfare Committee. The floor debate included many attempts to amend the resolution in various ways, all of which failed.

In the Senate, the floor debate included a "Call of the Senate" to compel members to vote on the resolution. Several motions to excuse absent members from voting failed.

### 1994: Prohibit Desecration of American Flag

A direct response to the U.S. Supreme Court's decisions in *Texas v. Johnson*<sup>30</sup> and *United States v. Eichman*,<sup>31</sup> this resolution requested a constitutional amendment granting Congress and the states the power to prohibit physical desecration of the United States flag.

Congress has not proposed an amendment to the states on this topic.

### 1994 Resolution Data

Adoption of Resolution by Legislature	April 7, 1994 <i>House Vote: 100-25 (3/21/1994)</i> <i>Senate Vote: 51-14 (4/7/1994)</i>
Action by Minnesota Governor	Approval, April 15, 1994

The 1994 resolution was styled as a memorial resolution.

In the House, the 1994 resolution was reviewed and approved by the Committee on General Legislation, Veterans Affairs, and Elections.

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<sup>30</sup> *Texas v. Johnson*, 491 U.S. 397 (1989).

<sup>31</sup> *United States v. Eichman*, 496 U.S. 310 (1990).



## Appendix: Legislative History Citations

**Legislative Action in Congress and Other States.** Except where otherwise cited by footnote, data in this publication that indicate legislative activity outside of Minnesota—including proposals by Congress and amendment ratifications by other states—is from the U.S. Congress in its publication *Constitution of the United States of America: Analysis and Interpretation*.<sup>32</sup>

**Legislative Action in Minnesota.** Procedural data related to Minnesota's legislative activity was compiled using the official published journals of the House and Senate and other available legislative records, as follows:

Table 1  
**Minnesota's Ratification of Proposed Amendments**

Amendment	Legislative Session	Law/File Number	Final Vote in House	Final Vote in Senate	Action by Governor
13th	7th Leg. (1865)	Concurrent Resolution (H.F. 137)	Journal of the House, pg. 163	Journal of the Senate, pg. 176 (February 23, 1865)	---
14th	9th Leg. (1867)	Concurrent Resolution (not numbered)	Journal of the House, pg. 33 (Jan. 17, 1867)	Journal of the Senate, pg. 23 (Jan. 17, 1867)	Journal of the House, pg. 95 (Feb. 4, 1867)
15th	12th Leg. (1870)	<a href="#">Laws 1870, Joint Res. No. 1 (S.F. 2)</a>	Journal of the House, pg. 29 (Jan. 13, 1870)	Journal of the Senate, pg. 21 (Jan. 12, 1870)	Journal of the Senate, pg. 40 (Jan. 19, 1870)
16th	Extra Session (1912)	<a href="#">Laws 1912 (Extra Session) Joint Res. No. 2 (H.F. 12)</a>	Journal of the House, pg. 24 (June 6, 1912)	Journal of the Senate, pg. 53 (June 11, 1912)	Journal of the House, pg. 75 (June 14, 1912)
17th	Extra Session (1912)	<a href="#">Laws 1912 (Extra Session) Joint Res. No. 1 (H.F. 11)</a>	Journal of the House, pg. 23 (June 6, 1912)	Journal of the Senate, pg. 48 (June 10, 1912)	Journal of the House, pg. 75 (June 14, 1912)
18th	41st Leg. (1919)	<a href="#">Laws 1919, Res. No. 1 (S.F. 77)</a>	Journal of the House, pg. 112 (Jan. 17, 1919)	Journal of the Senate, pg. 10 (Jan. 16, 1919)	Journal of the Senate, pg. 2 (Jan. 23, 1919)

<sup>32</sup> *Constitution of the United States of America: Analysis and Interpretation* is published by the U.S. Government Printing Office, at the direction of the U.S. Congress. It is available online at <https://www.congress.gov/constitution-annotated/>.

Amendment	Legislative Session	Law/File Number	Final Vote in House	Final Vote in Senate	Action by Governor
<b>19th</b>	Extra Session (1919)	<a href="#">Laws 1919 (Extra Session) Joint Res. No. 1 (H.F. 1)</a>	Journal of the House, pg. 11 (September 8, 1919)	Journal of the Senate, pg. 13 (September 8, 1919)	Journal of the House, pg. 63 (September 11, 1919)
<b>20th</b>	48th Leg. (1933)	<a href="#">Laws 1933, Joint Res. No. 5 (S.F. 94)</a>	Journal of the House, 48th Leg. (1933), pg. 101 (Jan. 12, 1933)	Journal of the Senate, 48th Leg. (1933), pg. 69 (Jan. 12, 1933)	Journal of the Senate, 48th Leg. (1933), pg. 102 (Jan. 16, 1933)
<b>21st</b>	48th Leg. (1933)	<a href="#">Laws 1933, chapter 214 (S.F. 1027)<sup>33</sup></a>	---	---	---
<b>22nd</b>	57th Leg. (1951)	<a href="#">Laws 1951 Joint Res. No. 4 (S.F. 15)</a>	Journal of the House, pg. 651 (Feb. 27, 1951)	Journal of the Senate, pg. 345 (Feb. 13, 1951)	Journal of the Senate, pg. 615 (Mar. 2, 1951)
<b>23rd</b>	62nd Leg. (1961)	<a href="#">Laws 1961, Res. No. 1 (S.F. 5)</a>	Journal of the House, pg. 219 (Jan. 31, 1961)	Journal of the Senate, pg. 57 (Jan. 17, 1961)	Journal of the Senate, pg. 236 (Feb. 6, 1961)
<b>24th</b>	63rd Leg. (1963)	<a href="#">Laws 1963, Res. No. 3 (H.F. 66)</a>	Journal of the House, pg. 379 (Feb. 19, 1963)	Journal of the Senate, pg. 487 (Feb. 27, 1963)	Journal of the House, pg. 610 (Mar. 6, 1963)
<b>25th</b>	65th Leg (1967)	<a href="#">Laws 1967, Res. No. 1 (H.F. 21)</a>	Journal of the House, pg. 117 (Jan. 17, 1967)	Journal of the Senate, pg. 417 (Feb. 10, 1967)	Journal of the House, pg. 337 (Feb. 13, 1967)
<b>26th</b>	67th Leg. (1971)	<a href="#">Laws 1971, Res. No. 3 (S.F. 1322)</a>	Journal of the House, pg. 899 (March 23, 1971)	Journal of the Senate, pg. 754 (Mar. 23, 1971)	Journal of the Senate, pg. 777 (Mar. 23, 1971)
<b>27th</b>	76th Leg. (1989)	<a href="#">Laws 1989, Res. No. 6 (H.F. 762)</a>	Journal of the House, pg. 7709 (May 22, 1989)	Journal of the Senate, pg. 3888 (May 19, 1989)	Journal of the House, pg. 9128 (May 26, 1989)

<sup>33</sup> This citation provides for enactment of the state ratifying convention. For actual ratification of 21st amendment, *see* Journal of the Proceedings of the Convention in and of the State of Minnesota Held for the Purpose of Considering the Ratification of a Certain Proposed Amendment to the Constitution of the United States of America Pursuant to chapter 214 of the General Laws of 1933.

<b>Amendment</b>	<b>Legislative Session</b>	<b>Law/File Number</b>	<b>Final Vote in House</b>	<b>Final Vote in Senate</b>	<b>Action by Governor</b>
<b>Congressional Apportionment (proposed)</b>	---	---	---	---	---
<b>Titles of Nobility (proposed)</b>	---	---	---	---	---
<b>Prohibiting Elimination of Slavery (proposed)</b>	---	---	---	---	---
<b>Child Labor (proposed)</b>	Extra Session (1933)	<a href="#">Laws 1933 (Extra Session), Res. No. 2.</a> (H.F. 27) <sup>34</sup>	Journal of the House, pg. 76 (Dec. 13, 1933)	Journal of the Senate, pg. 89 (Dec. 14, 1933)	Journal of the House, pg. 91 (Dec. 15, 1933)
<b>Equal Rights (proposed)</b>	68th Leg. (1973)	<a href="#">Laws 1973, Res. No. 1</a> (H.F. 3)	Journal of the House, pg. 179 (Jan. 22, 1973)	Journal of the Senate, pg. 255 (Feb. 8, 1973)	Journal of the House, pg. 318 (Feb. 12, 1973)
<b>District of Columbia Representation (proposed)</b>	71st Leg. (1979)	<a href="#">Laws 1979, Res. No. 1</a> (H.F. 3)	Journal of the House, pg. 397 (Mar. 8, 1979)	Journal of the Senate, pg. 477 (Mar. 19, 1979)	Journal of the House, pg. 622 (Mar. 28, 1979)

<sup>34</sup> Joint Resolution Rejecting Proposed Child Labor Amendment: [Minnesota Laws 1925, Resolution No. 13.](#)

Table 2  
**Minnesota's Applications for an Article V Convention**

Article V Application	Legislative Session	Law/File Number	Final Vote, House	Final Vote, Senate	Action by Governor
<b>Direct Election of Senators</b>	32nd Leg. (1901)	<a href="#">Laws 1901, Chapter 406</a> (S.F. 904)	Journal of the House, pg. 138 (Feb. 2, 1901)	Journal of the Senate, pg. 108 (Jan. 31, 1901)	Journal of the Senate, pg. 177 (Feb. 9, 1901)
<b>Prohibition of Polygamy</b>	36th Leg. (1909)	<a href="#">Laws 1909, Joint Res. No. 17</a> (S.F. 475)	Journal of the House, pg. 1320 (Apr. 2, 1909)	Journal of the Senate, pg. 803 (Mar. 24, 1909)	Journal of the Senate, pg. 1055 (Apr. 8, 1909)
<b>State Legislative Apportionment</b>	64th Leg. (1965)	<a href="#">Laws 1965, Res. No. 5</a> (H.F. 522)	Journal of the House, pg. 1405 (May 6, 1965)	Journal of the Senate, pg. 1745 (May 5, 1965)	Journal of the House, pg. 2270 (May 13, 1965)

Table 3  
**Minnesota's Requests that Congress Propose an Amendment**

Resolution	Legislative Session	Law/File Number	Final Vote, House	Final Vote, Senate	Action by Governor
<b>Direct Election of Senators</b>	28th Leg. (1893)	<a href="#">Laws 1893, Res. No. 8</a> (H.F. 404)	Journal of the House, pg. 203 (Feb. 8, 1893)	Journal of the Senate, pg. 311 (Feb. 28, 1893)	Journal of the House, pg. 419 (Mar. 4, 1893)
<b>Direct Election of Senators</b>	29th Leg. (1895)	<a href="#">Laws 1895, Res. No. 4</a> (H.F. 150)	Journal of the House, pg. 88 (Jan. 29, 1895)	Journal of the Senate, pg. 73 (Jan. 30, 1895)	Journal of the House, pg. 126 (Feb. 5, 1895)
<b>Regulation of Trusts and Monopolies</b>	32nd Leg. (1901)	<a href="#">Laws 1901, Chapter 400</a> (H.F. 77)	Journal of the House, pg. 145 (Feb. 4, 1901)	Journal of the Senate, pg. 225 (Feb. 16, 1901)	Journal of the House, pg. 292 (Feb. 25, 1901)

<b>Resolution</b>	<b>Legislative Session</b>	<b>Law/File Number</b>	<b>Final Vote, House</b>	<b>Final Vote, Senate</b>	<b>Action by Governor</b>
<b>Women's Suffrage</b>	41st Leg. (1919)	<a href="#">Laws 1919, Res. No. 2</a> (H.F. 61)	Journal of the House, pg. 141 (Jan. 22, 1919)	Journal of the Senate, pg. 10 (Jan. 23, 1919)	Journal of the House, pg. 191 (Jan. 24, 1919)
<b>Tax-Exempt Securities</b>	48th Leg. (1933)	<a href="#">Laws 1933 Res. No. 24</a> (H.F. 1921)	Journal of the House, pg. 1608 (Apr. 8, 1933)	Journal of the Senate, pg. 1619 (Apr. 18, 1933)	N/A <sup>35</sup>
<b>Tax-Exempt Securities</b>	51st Leg. (1939)	<a href="#">Laws 1939, Res. No. 12</a> (S.F. 176)	Journal of the House, pg. 633 (Mar. 6, 1939)	Journal of the Senate, pg. 235 (Feb. 8, 1939)	Journal of the Senate, pg. 530 (Mar. 9, 1939)
<b>Equal Rights Amendment</b>	56th Leg. (1949)	<a href="#">Laws 1949, Res. No. 18</a> (H.F. 905)	Journal of the House, pg. 2224 (Apr. 18, 1949)	Journal of the Senate, pg. 2322 (Apr. 20, 1949)	Journal of the House, pg. 2663 (Apr. 25, 1949)
<b>Rights at Conception</b>	68th Leg. (1973)	<a href="#">Laws 1973, Res. No. 5</a> (H.F. 479)	Journal of the House, pg. 1387 (Apr. 13, 1973)	Journal of the Senate, pg. 1829 (Apr. 28, 1973)	Journal of the House, pg. 3152 (May 8, 1973)
<b>Desecration of American Flag</b>	78th Leg. (1994)	<a href="#">Laws 1994, Res. No. 5</a> (H.F. 1880)	Journal of the House, pg. 5315 (Mar. 21, 1994)	Journal of the Senate, pg. 7631 (Apr. 7, 1994)	Journal of the House, pg. 7230 (Apr. 15, 1994)

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<sup>35</sup> It appears this resolution was approved by the governor on April 21, 1933, following final adjournment of the legislative session. As a result, a message was not received by the legislature in time to be entered into the House or Senate Journal.