

REFERENCE TITLE: **article V convention; delegates; election**

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SCR 1038**

Introduced by  
Senator Kern

### A CONCURRENT RESOLUTION

PROVIDING PROCEDURES FOR ELECTING DELEGATES TO AN ARTICLE V CONVENTION FOR RATIFYING AN AMENDMENT TO THE UNITED STATES CONSTITUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1           Whereas, an election providing for a vote of the people to elect  
2 delegates to a state ratifying convention is the preferred method of  
3 choosing delegates for many reasons that apply today, as they did when  
4 first used in 1933; and

5           Whereas, the Twenty-first Amendment to the United States  
6 Constitution, repealing prohibition, used this method of ratification for  
7 the same reasons we should apply this option today, including avoiding  
8 undue influence of vested interests, expediting voting into a single  
9 election event and ensuring the broad support of the general public.

10 Therefore

11 Be it resolved by the Senate of the State of Arizona, the House of  
12 Representatives concurring:

13           1. That, if the Congress of the United States or these several  
14 states propose an amendment to the Constitution of the United States and  
15 propose that it be ratified by conventions in these several states, the  
16 Governor of this state shall fix by statewide proclamation the date of an  
17 election for the purpose of electing delegates to such convention in this  
18 state. Such election may either be at a special election or may be held at  
19 the same time as a general election, but shall be held at least as soon as  
20 the next special or general election occurring more than three months  
21 after the amendment has been proposed by these several states or by  
22 Congress.

23           2. That at such an election all electors who have registered may  
24 vote. Should a special election be called, registration of voters shall be  
25 reopened by the county recorder on the third Monday preceding such special  
26 election and shall be closed at 5:00 p.m. on the following Saturday. All  
27 electors who were registered at the last general election or who are  
28 registered during the period of registration is reopened for such special  
29 election may vote at such special election.

30           3. That, except as otherwise provided, such an election shall be  
31 conducted and the results thereof ascertained and certified in the same  
32 manner as in the case of the election of state officers in the state and  
33 all provisions of the laws of this state relative to elections except so  
34 far is inconsistent with this act are hereby made applicable to such  
35 election.

36           4. That the number of delegates to be chosen at such a convention  
37 shall be \_\_\_ to be elected among eligible voters from each United States  
38 congressional district or county or by statewide ballot.

39           5. That candidates for the office of delegate to the convention  
40 shall be qualified electors of this state. Nominations shall be by  
41 petition signed by at least one thousand qualified electors. Nominations  
42 shall be without party or political designation, but the nominating  
43 petitions shall contain a signed statement by the nominee declaring the  
44 nominee's favoring or opposing ratification. A nominating petition may  
45 not be accepted unless such statement is contained therein. A nomination

1 is not effective except those of the nominees in favor of the ratification  
2 and the nominees against ratification as were first filed with the  
3 Secretary of State, each group being half of the number prescribed in  
4 paragraph 4. If no petition is received by the filing deadline for a  
5 district nominee, favorable or opposed, the County Executive may assign a  
6 local resident to fill the position or may reduce the number of nominees  
7 to balance their representation in both groups.

8 6. That within ten days after the petitions are filed, the  
9 Secretary of State shall certify the candidates of each group to the Board  
10 of Supervisors or County Executive of the respective counties of the  
11 state. All petitions shall be filed with the Secretary of State not less  
12 than thirty days before the properly proclaimed date of the election. The  
13 two groups of certified petitioners shall gather at the state capitol  
14 before the election and take an official oath of office, the time and  
15 place to be determined by the Speaker of the House of Representatives and  
16 the President of the Senate.

17 7. That the election shall be by in-person ballot only. A separate  
18 ballot, apart from any ballot to be used at the same election, shall be  
19 prepared as follows:

- 20 • It shall first state the substance of the proposed amendment.  
21 This shall be followed by appropriate instructions to the  
22 voters.
- 23 • It shall then contain perpendicular columns of equal width  
24 headed respectively in plain type, "For Ratification" and  
25 "Against Ratification".
- 26 • In the first column, headed "For Ratification", shall be  
27 placed the names of the nominees nominated as in favor of  
28 ratification.
- 29 • In the next column, headed "Against Ratification", shall be  
30 placed the names of the nominees nominated as against  
31 ratification.
- 32 • The voter shall indicate the voter's choice by making one or  
33 more marks in the appropriate spaces provided on the ballot.
- 34 • A ballot shall not be held void because any such mark is  
35 irregular in character.
- 36 • The ballot shall be so arranged that the voter may alternately  
37 make a single mark indicating the voter is voting for the  
38 entire group of the nominees whose names comprise any column.

39 8. That the election ballot for district voters throughout the  
40 state shall be in substantially the following form:

41 ANSWER WHETHER YOU ARE IN FAVOR OR AGAINST RATIFYING INTO LAW  
42 THE PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION.

1           The Congress has proposed an amendment to the Constitution of the  
2 United States that provides (INSERT SUMMARY OF PROPOSED AMENDMENT). The  
3 Congress has also agreed that the said amendment shall be ratified by  
4 conventions in these several states.

5           INSTRUCTIONS TO THE VOTERS -

6           Do not vote for more than \_\_\_\_ candidates. To vote for ALL  
7 candidates in favor of ratification or for ALL candidates  
8 against ratification make a mark at the head of the list of  
9 candidates to indicate your vote for the entire group in that  
10 column. If you do this, make no mark for any individual  
11 candidate.

12          The proposed new amendment is attached, below.

13          9. That the \_\_\_\_ nominees receiving the highest number of votes in  
14 their district shall be delegates at the convention. If there is a vacancy  
15 in the convention caused by the death or disability of any delegate, or  
16 for any other cause, the vacancy shall be filled by appointment by the  
17 majority of the delegates comprising the group from which such delegate  
18 was elected and if the convention contains no other delegates of that  
19 group, shall be filled by the Speaker of the House of Representatives or  
20 alternately by the President of the Senate.

21          10. That delegates elected on a platform or nomination petition  
22 statement as "For" or "Against" ratification must vote at such convention  
23 in accordance with such platform or nomination petition statement. On a  
24 delegate's failure to do so, the delegate will be immediately dismissed  
25 for violating the oath of office and will be subject to the maximum  
26 prevailing civil or criminal penalties, including fines, civil penalties  
27 and imprisonment as prescribed by law. In addition, that delegate's vote  
28 will not be considered and the delegate's office will be deemed vacant to  
29 be filled as herein provided for filling vacancies.

30          11. That the delegates to the convention shall meet at the state  
31 capitol on the first Tuesday of the following month after their election  
32 at 10:00 a.m. and shall constitute a convention to pass on the question of  
33 whether the proposed amendment should be ratified.

34          12. That the convention shall be the judge of election and  
35 qualification of its members and shall have power to elect its president  
36 and secretary and other officers and to adopt its own rules.

37          13. That the convention shall keep a journal of its proceedings in  
38 which shall be recorded the vote of each delegate on the question of  
39 ratification of the proposed amendment. On final adjournment the journal  
40 shall be filed with this state's Secretary of State.

41          14. That if the convention agrees by vote of a majority of the  
42 total number of delegates to the ratification of the proposed amendment, a  
43 certificate to that effect shall be executed by the President and  
44 Secretary of the convention and shall be transmitted to the Secretary of  
45 State of this state, who shall transmit the certificate under the Great

1 Seal of the State of Arizona to the National Archivist, to the leaders of  
2 Congress, to the Office of the Clerk of the United States House of  
3 Representatives, the Comptroller General and the United States Secretary  
4 of State.

5 15. That delegates shall receive \$1,000 and shall also receive  
6 vehicle mileage for two round trips as routed by Google Maps to and from  
7 their residence or the center of their campaign district to the state  
8 capitol building, at the prevailing state government rate, or \$0.56 per  
9 mile, whichever is more.