

**TESTIMONY OF
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IN FAVOR OF HCR5008
KANSAS HOUSE
FEDERAL AND STATE AFFAIRS COMMITTEE
FEBRUARY 15, 2023**

Mr. Chairman and Members of the Committee, thank you for the opportunity to speak to in favor of HCR5008.

I am proud to say that both sets of my grandparents were immigrants that came to the United States for a better life believing that Liberty and Freedom were available to everyone who worked hard.

As I was growing up one of the values my family instilled in me was hard work and the drive to succeed. They worked hard to build a better life for me.

Our confidence of working and creating a good life for ourselves is based on the founding principles of everyone having the opportunity to succeed in a country founded on liberty and freedom. Our founders wrote in the Declaration of Independence, “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

I am deeply concerned that our children and grandchildren will not have the same opportunities I have.

The reasons I support an Article V Convention of the States are that it is clear that the Federal government is far exceeding the intended authority as written in the US Constitution. Our country was founded as a Democratic Republic with clear separation of powers. The States created the Federal Government not the other way around. With that in mind most rights are reserved to the states, but over time those have increasingly been taken away.

The Founders foresaw a time when the States would need to have the ability to amend the constitution because the overreach by the federal government was creating the Tyranny our forefathers fought so valiantly to stop. And that is what we are experiencing today.

While it is true that we’ve not yet had a complete, national amendments proposing convention of the states under the Constitution, we have had over 40 interstate conventions that have successfully followed their rules and procedures without “going rogue.” There are many court decisions on the issues. And, we’ve obtained many of our existing 27 amendments by states starting the process off with a call for a convention of states.

Here’s a description of what one looks like:

“A convention for proposing amendments is a meeting of representatives (‘commissioners’) from the 50 state legislatures. The convention is called by Congress, but that call is mandatory when two thirds (now 34) of the state legislatures pass ‘Applications’ for a convention on a particular topic or topics. In issuing the call, Congress acts as an agent of the state legislatures. Congress’s

power extends only to adding up the calls by topic and specifying the initial time and place of meeting.

The state commissioners then convene to discuss whether they think amendments on the assigned topics are needed. If the commissioners conclude that amendments are needed, they write them and propose them to the states for ratification. Voting at the convention is on a one-vote per state basis. No convention proposal becomes an amendment unless three fourths [38] of the states ratify.”

Source: Robert Natelson, “Curing Federal Dysfunction by Constitutional Amendment: A Primer,” November 2014, The Independence Institute, Denver, Colorado. Found here: <https://articlevinfocenter.com/article-v-process/>.

But couldn’t the convention, once called for limited purposes, be hijacked by others with lots of money and other agendas?

No, it cannot. Despite a recurring myth promoted by both liberal and conservative advocacy groups beginning in the 1960s, there is no precedent for a “runaway convention” in the rich history of interstate conventions. And once you consider the multiple, redundant protections against out of order amendment proposals, it really settles the question. Here are those protections:

1. The scope of authority for the convention is defined by the topic specified in the 34 state applications. Proposals beyond that scope would be out of order.
2. Convention commissioners are agents of their state legislatures, subject to instructions and all other remedies of agency law, for example: a) commissioners can be recalled; b) commissioners can be punished; c) their activities outside of their authorities would be void.
3. If state legislatures failed to stop rogue commissioners, AND if a majority of the state delegations voted to propose amendments outside their authorities, AND if Congress agreed to send such amendment(s) to the states for ratification, Congress could be sued and the courts could find the amendment(s) void.
4. If all the above protections failed, 38 state legislatures still must ratify amendment proposals before they become law.

Another example of how an Article V Convention of the States Convention would be conducted is by looking at the “Rules for a Simulated Convention for Proposing Amendments” that occurred in 2016. A copy of the Rules is attached as an attachment to this testimony.

As you can see, there is significant precedence to understand how an Article V Convention of the States Convention would be conducted and the safeguards built into the process.

Therefore, I respectfully ask this committee to support HCR5008 and pass it out of committee for consideration by the full House.

Thank you for your time, I will be happy to answer your questions if there are any.