Author: Peter Rykowski
Date: January 13, 2025



Stop Federal Constitutional Convention Resolutions in Kansas

URGENT: Legislative hearings are scheduled for HCR 5022 (Wednesday, January 28, at 9 a.m.) in the House Committee on Federal and State Affairs, and SCR 1617 (Thursday, January 29, at 10:30 a.m.) in the Senate Committee on Federal and State Affairs. The John Birch Society encourages you to attend these hearings and testify against these dangerous resolutions. *Additionally,* ***you can submit written testimony*** *by emailing H.Fed.State.Affairs@house.ks.gov (House committee) and S.Fed.State.Affairs@senate.ks.gov (Senate committee).*

Additionally, please call the members of the House Committee on Federal and State Affairs and the Senate Committee on Federal and State Affairs, and urge them to oppose a Con-Con.

COS Con-Con resolution SCR 1604 (which passed the Senate by a 29-11 vote) and "faithful delegate" bill HB 2065 could be debated and voted on by the House as soon as Thursday, April 10. *It's imperative that we protect the U.S. Constitution by stopping these dangerous resolutions in their tracks.* ***Contact your state representative, and urge him or her to oppose this disastrous resolution, which threatens the U.S. Constitution, along with every other Con-Con resolution.***

Members of the Kansas Legislature are seeking to pass multiple resolutions making application to Congress to "call a Convention for proposing Amendments," under Article V of the U.S. Constitution, otherwise known as a federal constitutional convention (Con-Con) or "convention of states," as some erroneously refer to it.

The following bills and resolutions have been introduced:

- Senate Concurrent Resolution No. 1604 (SCR 1604) follows the wording of Mark Meckler's Convention of States (COS) Project application, urging Congress to call a convention to propose amendments "that

impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for officials of the federal government and members of the Congress of the United States." ***On January 22, the Legislature passed SCR 1604. However, it did not receive a two-thirds majority, since a federal judge overturned the provision of the Kansas Constitution requiring a two-thirds majority.***

- House Concurrent Resolution No. 5001 (HCR 5001), House Concurrent Resolution 5022 (HCR 5022), and Senate Concurrent Resolution No. 1607 (SCR 1607) urge Congress to call a convention to propose a constitutional amendment "to set a limit on the number of terms that a person may be elected as a member of the U.S. House of Representatives and the U.S. Senate." ***HCR 5001 failed to pass the House because of Kansas' two-thirds-majority requirement, but legislators will likely attempt to pass HCR 5022 now that a federal judge overturned this state-constitutional requirement.***
- House Bill No. 2065 (HB 2065) and Senate Bill No. 272 (SB 272) have also been introduced. These bills are designed to give false assurance that a convention won't get out of control, doing this by ostensibly regulating the appointment and conduct of delegates. Such a bill would be completely useless at preventing a runaway convention — for example, the bills don't regulate delegates from other states, and it doesn't prevent delegates from proposing an entirely new constitution (in the 1787 Convention, states also attempted to limit delegates' authority). ***On January 22, the House passed HB 2065, sending it to the Senate for consideration.***
- Senate Concurrent Resolution No. 1617 (SCR 1617) would amend the Kansas Constitution to remove its provision requiring a two-thirds majority vote to pass Con-Con resolutions, which a federal judge has overturned in a judicial-activist court ruling. ***This resolution is pending in the Senate.***

COS's Judicial Activism

Convention of States (COS) and other supporters of an Article V constitutional convention are seeking to change the Kansas Legislature's rules to require a simple majority to approve resolutions applying for a Con-Con — even though Article 2, Section 13, of the Kansas Constitution explicitly requires a two-thirds vote for such resolutions. ***In November 2025, a U.S. district-court judge overturned this provision of the Kansas Constitution, claiming that it violated the U.S. Constitution.***

If COS wants to blatantly ignore an explicit provision of the Kansas Constitution, how can we trust it to uphold the U.S. Constitution?

Dangers of a Con-Con

Any Article V convention, no matter how well intentioned, could lead to a runaway convention that would reverse many of the Constitution's limitations on government power and interference. In other words, **a Con-Con could accomplish the same goals that many of its advocates claim to be fighting against.** As evidence, both a 2016 and 2023 simulated "Convention of States" resulted in amendments massively increasing the federal government and expanding its spending powers.

When speaking to your legislators, emphasize the following irrefutable facts about an Article V convention for proposing amendments:

1. There is no constitutional authority for a limited convention.
2. There is no guidance on how delegates would be selected.
3. There is no guidance on who could qualify as a delegate.
4. There is no guidance on how many delegates each state could send.
5. There is no provision for stopping a runaway convention.
6. There is no provision for how rules would be established.
7. There is no provision for how rules would be enforced.
8. There is no role provided for the people to play in the process.
9. There is no power provided for the people to stop a convention once it starts.
10. There is no description of the ratification conventions Congress could choose to call.

11. There are no rules governing the ratification conventions Congress could choose to call.
12. There is no means provided for either the states or the people to challenge Congress's choice of the method of ratification.
13. There is no test provided for a qualifying application submitted by a state.
14. The acceptance by one Congress of a state application for a convention does not bind subsequent Congresses from accepting that application.
15. Application for a convention submitted by one state legislature does not prevent subsequent state legislatures from revoking the previous application.
16. All these issues would be challenged in court and would take years to be decided.
17. The issues to be addressed at a convention to propose amendments would likely be moot by the time the challenges reached the U.S. Supreme Court for final adjudication.
18. If 100 percent of registered voters opposed an amendment proposed by a convention, but the requisite number of state legislatures or ratifying conventions (according to the process determined by Congress for consideration of proposed amendments) supported it, then that amendment would become part of the Constitution regardless of the will of the people.
19. The same scenario is true if a proposed amendment were approved by 100 percent of registered voters but rejected by the ratification conventions or state legislatures (according to the process determined by Congress for consideration of proposed amendments).

The late Supreme Court Justice Antonin Scalia understood the danger of a constitutional convention. In 2015, Scalia reiterated his opposition to an Article V convention, stating, **"This is not a good century to write a constitution."** Furthermore, ***what kind of delegates would Kansas send to such a convention? Constitutionalist conservatives or RINO moderates and liberals?***

In 1979, then-U.S. Senator Barry Goldwater of Arizona correctly warned about an Article V convention:

> If we hold a constitutional convention, every group in the country — majority, minority, middle-of-the-road, left, right, up, down — is going to get its two bits in and we are going to wind up with a constitution that will be so far different from the one we have lived under for 200 years that I doubt that the Republic could continue.

Goldwater considered an Article V Convention threatening to the continuity of the United States' republican form of government. It would be foolhardy and downright reckless to disregard these and other legitimate concerns.

An Article V convention possesses the inherent power to propose ***any*** changes to the U.S. Constitution, including drafting and proposing an entirely new "modern" (i.e., socialist) constitution. Instead, ***the Kansas Legislature should consider Article VI and nullify unconstitutional laws.***

Furthermore, ***state lawmakers should also consider rescinding any and all previously passed Article V convention applications to Congress, regardless of the desired amendment(s).*** Passing rescission resolutions will help prevent aggregating past Article V convention applications with those from other states to force Congress to call a convention.

Above all, **urge your state representative and senator to oppose all pro-Article V convention resolutions and instead consider nullification as a safe and constitutional means to limit government.**

The Harsh Reality of a "Convention of States"