

**Date: February 15, 2023**  
**HCR 5008, Hearing in the House Committee on Federal and State Affairs**  
**Blake Branson, representing myself only**  
**Opposing HCR 5008, written testimony only**  
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Honorable Chairman and members of the House Committee on Federal and State Affairs:

I wish I could support this resolution. The problems we face often feel overwhelming. Everywhere we look there is controversy, corruption, and more of our liberties slipping away.

It would be so nice to have an easy solution to solve all our problems. And it would be much easier to stand alongside so many of my proponent friends, both inside and outside of the legislature.

But the Constitution is too important and the problems with this resolution are too numerous for me to do so.

An Article V convention in today's climate would end either in disaster or in a giant waste of time.

I want to start by addressing a couple of the main amendments that proponents bring up, those being amendments for term limits and a balanced budget.

Both sound great as an issue to dangle in front of an angry grassroots as a solution to all their problems. But will it solve them?

A federal government out of control, unchecked spending, entrenched politicians, corruption, cronyism, too much influence for special interests, activist federal courts, and just generally failing to uphold our liberties or follow the Constitution. These are among the problems often referenced by proponents.

While I also want to see these problems addressed, I feel it necessary to point out that the main two proposed solutions, a term limits amendment and a balanced budget amendment, would not solve these problems and could even make them worse.

For example, requiring a balanced budget at the federal level won't reign in spending; it will just require raising taxes.

We already see Congress raise our debt ceiling over and over again. They will always find a way to cover their runaway spending.

Here in Kansas, we already require a balanced budget, but that couldn't stop the largest tax hike in Kansas history just a few years ago, when the Kansas legislature found controlling spending too difficult a task.

When it comes to the federal budget, a balanced budget amendment that fails to provide exceptions for war or emergencies would never be seriously considered.

But we know how the federal government will act if given the leeway of such exceptions. After all, we've seen how they act now. It's why we're here discussing possible solutions, after all.

We've been at war for over 20 years. Even after original objectives were completed, the authorizations for military force are extended and kept open.

And we've seen how emergencies work as well with the recent COVID pandemic. Even now the federal government, as well as various states and localities, are clinging to emergency powers they granted themselves.

If you leave an exception for war or emergencies, we will always be at war or under an emergency declaration of some sort.

Then we have term limits.

Kansas doesn't have term limits for legislators. Is the Kansas legislature really going to support a cause seeking to implement term limits at the federal level while there are no term limits here in Kansas?

Maybe Kansas has it right and term limits aren't the best solution.

Entrenched politicians build large and powerful organizations. Of that, there is no doubt. Special interests also do the same, implanting themselves in the organizations of politicians or throwing inordinate amounts of money into districts they wish to influence.

But will such organizations built by the politicians and the special interest groups cease to exist simply because term limits are implemented?

If we were to term limit Nancy Pelosi or Mitch McConnell right now, are we expected to believe they wouldn't have multiple hand-sculpted political clones to replace themselves?

Would the establishment suddenly stop using the organizations they've built to orchestrate their desired outcomes?

Will term limits suddenly empower average citizens with the knowledge, resources, skill, and experience to out-organize the establishment machine?

Term limits would, however, boot the few good politicians that the grassroots have worked their tails off to get elected. Term limits would have a much more significant impact on the more grassroots organizations, whose leaders can't yet replace themselves as easily.

Right now, grassroots elected officials have finally begun to wrestle some power away from the establishment in the House of Representatives, securing rules that level the playing field and ensure a more democratic legislative process.

Do we want to hamstring grassroots politicians every time they start to gain steam?

Put simply, if the grassroots don't have the organizational chops to oust a controversial, entrenched politician now, do they have the organizational chops to oust the hand-sculpted clone running in their place?

The establishment can churn out clone after clone with the same money, organization, and power as is used to maintain the entrenched politician.

The only change after term limits is that there would be no incumbent voting record or heat from constituents to help fuel a grassroots challenger.

Term limits will only further entrench the establishment machine and kick out the few good guys fighting for our rights.

There is no easy fix. It takes hard work to rival the organizational skills the establishment has built for decades. But in the end, that hard work is the only real way to solve the problem.

In addition to the failures of proposed amendments from the proponents' side, there are additional problems to consider.

One problem with an Article V convention comes in the claim that such a convention can be controlled and limited to the proposed subjects.

However, once convened, delegates have full authority, with enough votes, to change the rules, ignore the rules, and essentially do what they want. This is not an uncommon or unusual procedure for conventions or other parliamentary settings. That is, after all, why the delegates are there – to oversee and change the rules. Should we just expect that this standard procedure not be used at *this* convention?

In all likelihood, the topic of whether or not a convention can be limited will be decided in court. Federal court.

Every issue group under the sun will want their issue to be heard at a constitutional convention.

Lawsuits will abound.

And there are already rulings that suggest that the federal courts would give an opinion that favors an open convention, not a limited one.

Federal courts will likely conclude that an Article V convention, and its processes, cannot be constrained by the states, but only by the limits that delegates may place upon themselves.

Some proponents have claimed that delegates can be controlled by penalties, but any penalties the states may try to enforce would happen after the fact and do little to constrain delegates seeking to make their mark on history.

At best, this would be another issue decided by federal courts.

One of the bigger problems of this resolution, and perhaps the most disturbing, is the poorly written language of the resolution.

One of the most foundational and adamant points that proponents make is that the convention can be restricted to specific issues. Even if true, this resolution most certainly does not accomplish this goal.

HCR 5008 states that the topics or issues of the convention include to “*impose fiscal restraints*” and “*limit the power and jurisdiction of the federal government.*”

So long as a “fiscal restraint” or “limit” of power is included in a proposed amendment, even if it is mere showmanship, every part of the Constitution and every issue is on the table.

Worse than this, the limit for such an amendment could actually *expand* the power of the federal government, when compared to current limits, and still be allowed under this resolution!

At the very least, we should ensure that we are careful and exact with our words when altering our Constitution is the goal.

If the Kansas legislature is willing to accept this language, imagine what hidden hazards might appear in the language of amendments coming out of an Article V convention.

Haphazard language is a flaw too significant to ignore.

Another fundamental argument from proponents is that any amendments will have to be ratified by the states and that this is a strong enough buffer to protect our Constitution. While this sounds fair, there are several big problems with this assertion.

First is the faulty assumption that harmful amendments will be obvious or controversial.

The amendments proposed that will be most dangerous to the foundation of our Constitution won't be the most obvious ones.

It might be an amendment that simply contains loose language that leads to unintended results, as would be the case with this resolution. Or it might be an amendment that would change the rights protected by our Constitution.

Of course, a dangerous amendment will not specifically spell out trying to upend the Constitution or removing one of the Bill of Rights. A truly dangerous amendment is one crafted to look like a beautiful compromise.

It will be an amendment that can pass ratification while leaving Kansas out of the equation.

Which brings me to the second problem with assuming that the barrier of ratification should absolve us of worry.

Kansas is one of the most conservative states in the nation. This is an essential point to consider when discussing the potential for an Article V Convention. This means nearly every other state delegation at a proposed convention would hold a different worldview as they approach the idea of changing our Constitution.

Should Kansans be excited about a convention run nearly entirely by states actively governing with ideas that Kansans oppose?

Imagine for a moment what policy in this country would look like if the twelve (12) states that most align with your political ideology disappeared. Now imagine what the country would look like if the Constitution were altered to reflect that policy.

Is that a constitution you are prepared to make possible?

You see, twelve (12) states can be left entirely out of the equation, and an amendment that changes the Constitution can still be ratified.

In today's political climate, Kansas would likely be one of those founding states.

How many states subject themselves to federal government mandates on issues where the federal government has no authority to involve itself? Might those states allow for current policy to be cemented in the Constitution?

How many states restrict gun rights, even just a little bit, that might allow the Constitution to reflect those restrictions? While the number of Constitutional Carry states is growing, the focus is simply shifting to other ways to restrict our gun rights, like red flag gun confiscation, wait periods, ammunition and magazine restrictions, and gun-free zones.

And the most prominent example is what we have witnessed over the last several years. All but one state imposed devastating lockdowns, while few state legislatures fought back with more than a whimper. Will these states allow for new emergency powers that violate our rights to be enshrined in our Constitution?

Do you trust these states with our Constitution? I believe that if you consider it carefully, you will find that there are at least a few issues that you care about passionately, where trusting other states to change the Constitution would be a nightmare.

I encourage you to think long and hard before trusting our Constitution to such dangerous conditions.

Instead, I encourage you to partner with grassroots activists by being faithful to your oaths and holding your colleagues and other elected officials accountable for their actions and to the Constitution.

I strongly urge you to oppose HCR 5008. Thank you for your consideration.