

Testimony in Support of SCR 4012

Rescind all Article V Constitutional Convention Applications

Feb. 16th 2023, Bismarck, ND

Madam Chairwoman, Eldon Stahl, Evanston, Wyoming, in support of SCR 4012. Have you ever made a decision that seemed reasonable, but, upon reflection, was a mistake? Maybe you got some new information or experience which helped you see more clearly.

As the ancient playwright Sophocles wrote, "All men make mistakes, but a good man yields when he knows his course is wrong, and repairs the evil." [Sophocles, *Antogone*, (The Theban Plays, #3)]

Today, I'll present evidence that lobbying efforts supporting applications for an Article V amendments convention, from various groups, were, in fact, in bad faith, and that applying for an Article V Convention process was one of those well-intentioned mistakes common to the human experience.

Let's start with the 2011 application for a convention North Dakota passed, which says,

"WHEREAS, ... the safeguards in the [U S] Constitution...may not be sufficiently clear to limit a Constitutional Convention to the specific subject for which that convention was called and thereby avoid a "runaway convention" where other matters may be considered" (ND HCR 3048, from 2011 session)

Does that sound odd to you? We're concerned a convention could run away, so we're applying for a convention? Hindsight is indeed 20/20.

A key argument used to promote a convention has been that once 34 states apply for a convention on the same subject, the wording of the 34 applications would limit it.

In 2015, national lobbyists from the "Balanced Budget Amendment Task Force", lobbied North Dakota lawmakers and made this claim. The Legislature then passed that group's model resolution which reads,

"this application ... shall not be aggregated with any applications on any other subject;" (HCR 3015, North Dakota, 2015 session)

A few years later, the total number of states with active applications for a convention with language for a balanced budget amendment was actually going down due to rescissions. About that same time, this group began claiming that unrelated applications could and should be added together to trigger a convention. They even got resolutions to that effect filed in several states. One of them was Utah. If you'll turn to pages 3 through 6 in that resolution, you'll see it lists applications for a convention to propose a Bill of Rights, ending slavery, and the direct election of US Senators that supposedly Congress neglected to add together to call a convention for a balanced budget amendment. But this raises the question: if unrelated applications are used to trigger a convention, how would it be limited? And if proponents are going back on their original claims, why should we trust them? Why should we NOT rescind these applications for a convention?

A few state legislatures became alarmed at this blatant hypocrisy and betrayal and rescinded all previous applications for a convention [New Jersey, 2021 SCR 1061; Illinois, 2022, SJR 54, 2022]. North Dakota can do the same with SCR 4012.

Next, you have the Convention of States Project, or COS, resolution, passed in North Dakota in 2017. COS seems quite conservative at first glance. All about limiting the federal government. They often mention liberal organizations and people opposing a convention. That's half the story. What they don't say is that, as the "Conventional Wisdom" handout you have from the very left-leaning *Nation* magazine, there are those on the Left pushing for a Convention, including over 700 liberal organizations, as noted in another handout, from the left-leaning *Movetoamend.org* that support a convention. Are you OK with requesting a convention process to change the Constitution based on half-truths?

COS tends to make a lot of hay out of the idea of reining in the feds but never mentions their biggest goal. Back in 2013 Michael Farris, the co-founder of Convention of States Project explained it this way at the ALEC Convention:

"The greatest thing we can achieve out of a convention is if they mess it up, again, we call another convention."—*Farris, Natelson, and Meckler Speak at ALEC Conference, Posted Aug. 23, 2013 (Mr. Farris is Co-*

Founder of the Convention of States Project) <https://youtu.be/UCA2pyLHtiY?t=4146>

At the same meeting, Farris said,

“If they [the Supreme Court] abuse it, we just keep calling co--, so if the Supreme Court messes up, OK, let’s *abolish* it. If they’re going to ignore the Constitution, we abolish the Supreme Court and figure out some other way to settle the disputes.”--Michael Farris, Co-Founder, Convention of States Project, Ibid., <https://youtu.be/UCA2pyLHtiY?t=4183>

Is that what North Dakota had in mind? Perpetual changes to the Constitution as the greatest outcome? Rewriting or abolishing Article III dealing with the federal judiciary? If that’s on the table, why isn’t the legislative branch or the executive branch? Why NOT the Bill of Rights?

And you have this very revealing back and forth from Mark Meckler, President, CEO, and co-founder of Convention of states Project, where he said the quiet part out loud in 2021 in Rapid City:

Audience Member: “If there’s no risk, then why did you put ... the three basic limitations ...”

Mark Meckler: “So, as opposed...to doing a general convention?”

Audience Member: “Correct”

Mark Meckler: “The reason is for narrative...If I were to say...we’re just going to have a Convention; we have no idea... what we’re gonna talk about at this Convention, then, frankly, nobody would support it because there’d be so much fear out there...that we had to frame it in a way...and if you don’t frame a political discussion in the correct way, you lose.”

[emphasis added]--Mark Meckler, President, Co-Founder, Convention of States Project, Q&A Session, FreedomFest, Rapid City, SD, July 2021 <https://www.facebook.com/conventionofstates/videos/244524804218626> (28:20 mark)

So, if they admitted a convention is really just gambling with our Charter of Liberties, they’d get nowhere.

False assurances. Half-truths. Poor reasoning. False narratives and deceptively framing an argument. These tactics and others led North Dakota to apply for a Convention for changing the Constitution. But there is still time to back away from the danger before it's too late, and you can lead the way.

I urge you to give SCR 4012 a do pass recommendation and stand by for questions. Thank you.