**Testimony of Senator Jim DeMint**

**Ohio Senate Committee on Government Oversight and Reform**

**September 12, 2017**

I’m here as a former congressman and senator, and as a leader in the national conservative movement, to share with you why I believe that what is going on here at the state level, all across America, is much more important to the future of our country than anything happening in Washington DC. The pay, prestige and media coverage for congressmen and senators may be better than state legislators, but the very survival of our nation is now in the hands of the collective states, not Washington politicians. Our federal government has put America on an unsustainable course, and no matter whom we send to Congress or the White House, no matter which party is in control, the federal government has our nation headed toward disaster.

I do not make these statements lightly. As someone who has fought alongside of conservative champions like Senator Tom Coburn for over 20 years, it is not easy to admit that we have accomplished little more than to slow the growth of spending, debt, regulations and the infringement on the rights of the states and the American people. No one who has served in the Congress, the White House or the federal courts over the past several decades can honestly say that the country is better off now than when they began their service.

Now, we cannot just give up on Washington, of course. But it is well past time that all thinking Americans agree that Washington will never willingly give up its power. The Washington establishment with its academic propaganda machine, it media allies, its lobbyists, its corporate cronies, its career politicians and bureaucrats, and its worldwide collection of special interests will never, I repeat NEVER, willingly give their power back to the states and the people.

But we will continue to fight in Washington, if for no other reason than to buy time for the states – for you – to take the action that our founders envisioned and provided in the Constitution for such a time as this.

I’m talking about using the process in Article V—the convention of states process--which requires you, sitting in this room today, to act. The state-led Article V convention is the most powerful of all the checks and balances the Framers created in the Constitution. And we have never used it.

If we’re serious about putting Washington back in its limited place and restoring the rule of law and self-governance, then we have to **use** this process. We need you, sitting in this room, to pass Senate Joint Resolution 1 (SJR 1) for an amendment-proposing convention.

Specifically, we need constitutional amendments on three topics, which are the topics specified in SJR 1:

1. imposing real fiscal restraints on the federal government,

2. limiting federal power and jurisdiction, and

3. setting term limits for federal officials.

We’ve got to address these topics at an actual convention--a meeting--where delegations from all 50 states sit down to discuss, deliberate, draft, debate, edit, and eventually vote on specific proposals. Those proposals, of course, then go back to the states for ratification.

Now I know this is an arduous process, and that’s why I say we need to address all 3 of these subject matters at the convention. A balanced budget amendment is a good idea, but it is not enough by itself. We have to get DC **out** of the policy-making areas that were always meant to be left to the states.

Of course there are those who will tell you that a convention of the states to propose amendments could turn into a runaway convention with crazy amendments that could take away our rights. But we all know that we already have a runaway congress, with runaway spending and debt; a runaway federal bureaucracy that is making more laws and regulations than the congress; and runaway courts where one unelected, liberal judge can change the course of our nation.

I am not a bit concerned about this hypothetical “runaway convention,” because all it can do is to recommend amendments that must be ratified by 38 states. If we don’t have 13 states that will stop a crazy amendment to the Constitution, we’re in a lot more trouble than any of us can fix.

And the high ratification bar is only one of multiple and redundant layers of protections on this process. I’ve attached a full list of those protections at the end of my written testimony.

My fellow Americans, the Article V Convention of the States is the only solution as big as our nation’s problem. And I am convinced that the states and “we the people” are ready for the challenge to make it happen.

Twelve (12) states, now, have passed the Convention of States Project resolution, which incorporates these three topics for amendment proposals. I believe the American people will not rest until we get to 34, have our convention, and usher in a constitutional renaissance. I believe we will succeed in shifting power away from DC and back to the state and local levels, so that we will once again be a nation where the **people** decide which policies will govern them. Some states and localities will choose the liberal/progressive path, and some will choose the conservative path. But the point is that the **people** will again decide.

May God bless you, your state and our republic. Thank you.

**A Summary of the Protections on the Article V Convention Process**

* The agenda and scope of authority for an Article V Convention to propose amendments is defined by the 34 state legislature applications that trigger the convention. These applications are the very source of authority for the convention to begin with, under a plain reading of Article V. The significance of the stated topic or agenda in the application is also demonstrated by the fact that while over 400 state legislatures have applied for an Article V convention, no such convention has ever been held because there have never been 34 applications for a convention on the same topic. Any proposals beyond the scope of the topic stated in the 34 triggering applications would be non-germane and out of order, and any single commissioner could object to their consideration.
* Commissioners to the convention act as the *agents* of their state legislatures. The state legislatures thus retain the power to instruct their commissioners and to recall any commissioners who exceed their authority or instructions. As a matter of basic agency law, any actions taken outside the scope of an agent’s authority are void.

* *Even if* not one single state’s commissioner objected to a non-germane proposal, and/or *even if* the convention had installed a parliamentarian who refused to sustain such an objection, the non-germane proposal would only advance to the ratification stage if it were *supported* by a majority of the states. This is incredibly unlikely.

* Even inthe event that a *majority* of convention commissioners went rogue by ignoring the instructions given by the state legislatures that had appointed them (and thereby forfeiting any possibility of having any future in politics or public office), *and* state legislatures failed to remove the rogue commissioners to stop them from acting beyond their authority, it is highly unlikely that Congress would submit an illicit, non-germane amendment proposal to the states for ratification.

* Even in the event that Congress *did submit* an illicit amendment proposal to the states for ratification, by this time it is a virtual certainty that litigation would have commenced to enjoin the advancement of an illegitimately proposed amendment. The courts would declare such a proposal void. While the courts don’t have a wonderful track record in interpreting broad constitutional language, they do have an excellent track record of enforcing clear, technical matters of procedure and agency law. And in numerous judicial decisions, the [courts have protected](https://d3n8a8pro7vhmx.cloudfront.net/conventionofstates/pages/263/attachments/original/1448454690/Article_6-HowTheCourts.pdf?1448454690) the historical understanding of Article V procedures.

* But finally, *even if* ALL of those protections failed, it borders insanity to think that 38 states (the requirement for ratification under Article V) would ratify an amendment that had been proposed under these outrageous, unlawful circumstances.