Testimony of Robert Tuttle

House Government Oversight Committee
In Opposition to HJR2
March 10, 2026

Chairman Hall, Vice Chair Ferguson, Ranking Member Humphrey and distinguished Members of the Government Oversight Committee, thank you for allowing me to testify today against HJR2.

We don't have a big name lobbying organization behind us with a multi-million marketing budget, but we are here because we want to protect our Constitution from the unintended consequences of an experimental convention and we keep winning because our concerns are increasingly recognized as valid.

In fact, the momentum appears to have swung against a Convention, as one state after another fail to vote it out of committee or fail to pass the bill- COS had not won a new application since 2022, until, ironically, they had to file a lawsuit in Kansas at the end of 2025 invalidating a Kansas Constitutional provision which expressed the will of the people, actually arguing against state sovereignty to pass a hotly contested resolution just last month. It may still be appealed.

These resolutions keep coming back every session, but the risks and dangers have not changed.

With all due respect, please do not believe everything COS is telling you.

- Do not assume that an Article V Convention can be limited. Virtually the entire legal community and the vast preponderance of jurisprudence contradicts that.
- Do not assume that the rules for an Article V Convention are well known and accepted. The fact is that there has never been anything like an Article V Convention, much less an example or precedent.
- Do not assume that the Convention will be one-state, one-vote just because you put it in a bill. Even the COS website acknowledges that not all previous "interstate conventions" were one-state, one-vote, and there is no way it would happen in today's political environment.
- Do not believe that you or any other state legislature can control an Article V Convention, or tell Congress what they can and cannot do. The courts have, in fact, been clear and consistent that states cannot control or influence a federal function.
- Do not assume that Congress and the Federal Government will suddenly agree to follow the Constitution just because you add an amendment or two. They always find a way around it.

We are often accused of "fear mongering." This is not a disagreement between the COSA lobby and a few local wannabe Constitutionalists. In firm disagreement with a long list of politicians and talkshow hosts supporting an experimental convention, the warnings come from a long list of the most credible and compelling legal and Constitutional scholars in our country, including multiple Founders, multiple Supreme Court Justices, more than 40 of the preeminent Constitutional scholars in America, the Congressional Research Service, our own Legislative Service Commission, and well known conservative organizations like JBS, Eagle Forum, and even our own Ohio Gun Owners (OGO has publicly stated that they consider a pro-COS vote = anti-gun vote).

- Virtually all of these experts and scholars say the same thing: an Article V Convention cannot be limited or controlled, delegates will be highly partisan with their own agendas, and there is significant risk of unintended consequences, which the COS lobby likes to refer to disparagingly as a "runaway convention."

Consider these irrefutable facts:

1. **There has never been an Article V Convention** and none of the so-called "interstate conventions" were anything like an Article V Convention. The only reasonable precedent is the Constitutional Convention of 1787 which proved the exact point we are trying to make. Neither Congress or the states could control it, despite explicit written instructions in state commissions to their delegates.[1] None of the previous "interstate conventions" were federal functions, which our courts have differentiated in a long line of cases and precedent. States cannot control or influence a federal function.[2]
2. **There are no written and agreed upon rules for convening or conducting a Convention**- This fact was acknowledged and reinforced in a series of Research Reports by the Congressional Research Service in 2012, 2014, 2016, and 2017[3]. COS is making recommendations, but none of the major questions are settled. We cannot know what will happen. Period.

    - *There are no rules about who will be invited to participate*.
        i. Will Washington D.C. and Puerto Rico be invited to attend a Convention? More than 3 million American citizens who are also under the jurisdiction of the Constitution? Will they be disenfranchised? Who will decide? This decision would have to be made when a Convention was called- who other than Congress could make that decision?
    - *COS unsubstantiated claims to the contrary, there are no rules about who selects the delegates or who can be a delegate or even how many delegates*

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[1] See the actual delegate instructions from all 12 states which irrefutably show that at least 10 state delegations violated one or more of the explicit instructions given to them in their commissions. Violations included replacing, not revising, the Articles of Confederation (NY, MA, CT), changing annual elections for Congress (MA), eliminating one-state, one-vote (DE), and 9 states which required ratification by all 13 states: https://csac.history.wisc.edu/the-constitutional-convention/convention-delegates/

[2] See Rob Tuttle written testimony on HB67, which provides compelling arguments against state control, including the lack of Constitutional language and numerous federal and state court decisions.

[3] The 2014 Research Report elucidates dozens of critical, unanswered questions about an Article V Convention, discussing various arguments on both sides, but emphasizing that there is no agreement: https://www.everycrsreport.com/files/20140411_R42589_f565d06c544815456eb3805d4f52c2b5749d36b7.pdf

there will be. Even if States did decide… each state could decide differently…

i. Will California send 55 delegates and Ohio send 5? Governors, lobbyists, celebrities, felons, non-citizens? Any standards, requirements, guidance? Nothing.

- *There are no rules about voting procedures, certainly nothing requiring one-state, one-vote*, which was actually argued and thrown out in the Connecticut Compromise in the original Convention.
  i. Did you know that not all the previous, so-called "interstate conventions" were one-state, one-vote? COS documentation and assurances to the contrary are incorrect and deceptive.[4]
  ii. Realistically, there is absolutely no way in today's toxic political environment that a representative body of all 50 states would allow Wyoming and Vermont to have the same voting power that California, or Texas or Florida has. It would effectively disenfranchise millions of Americans.

There are no agreed upon rules to answer these outstanding questions, and many more. There is disagreement with COS' answers to all of these questions. Most importantly… who will decide? We don't have time to talk about the "political question doctrine." There is certainly no chance that a gathering of the most powerful and influential people in America is going to just hand over the rule making authority to a lobbying group from Texas. And there is no chance that Congress will not try to intervene.

There is no valid court precedent for an Article V Convention to be limited by anyone as to topics or Amendments considered. Period.

3. Here is one more irrefutable truth. **Until Congress is held accountable for *following* the Constitution, and our Courts enforce it, including its amendments, it doesn't matter what the Constitution says or what amendments we add.** Our rogue Congress and activist judges will continue to ignore or contort the Constitution to fit their own agenda. HJR2, with all of its risks, will not even solve the problem.

   Even Texas Gov. Greg Abbott acknowledges on his webpage: "*The constitution itself is not broken. What is broken is our Nation's willingness to obey the Constitution and to hold our leaders accountable to it*." No new amendment will solve that problem.

The overriding question is: how much risk are you willing to take with our Constitution? The supporters of this application are asking us to make some big assumptions.

- They are asking us to assume that the convention would stick exactly to what we ask them to do… and that California and New York won't try to insert their own agenda…

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[4] An article on the Convention of States website titled "**What happened at the 1889 St. Louis Convention of States,"** actually contradicts the COS assertion that all interstate conventions were one-state, one-vote. How many others are they misrepresenting? https://conventionofstates.com/news/what-happened-at-the-1889-st-louis-convention-of-states

reproductive freedom, national popular vote, red flag laws, drug legalization… many of which fit within the topics of this resolution… it wouldn't even have to "runaway."

- They are asking us to assume the reincarnation of our Founders as delegates, rather than the ravenous partisans that are bickering and stalemated in our current Congress… but there are certainly no George Washingtons or James Madisons to send as delegates today.
- They are asking us to assume that Soros, Bezos and Zuckerburg sit back and watch, and don't try to buy off or influence the delegates or the proceedings with hundreds of millions of dollars of bribes and advertising… with a complicit media.
- They are asking us to assume that Congress won't try to take control of the process and the rules… but will gladly bow to the states, and will give their approval to whatever happens throughout the process… If they don't, we may find ourselves in a true constitutional crisis of federalism and a court that we can't depend on to even get involved.
- They are asking us to assume that Congress will obey any new Amendments even though they don't obey the current ones and that the Supreme Court will stop legislating from the bench… will more words change their partisan agenda?
- In summary, they are asking us to assume that our Founders, Supreme Court Justices, the most recognized and preeminent legal scholars, the Congressional Research Service and our own Ohio Legislative Service Commission ARE ALL WRONG- and instead rely on a small, but persistent, lobbying group out of Texas with a dismal track record arguing cases before federal and state courts. In the words of one of my favorite country singers- "I recommend you don't."

As Justice Antonin Scalia said, there is no way to know what would come out of a Convention. What we do know is that it wouldn't be a civil and respectful discussion among like minded conservatives, rather it would be a playground for radical idealogues, activist billionaires and a jubilant and complicit media.

Convening an Article V Convention would be like opening Pandora's Box. I respectfully submit that this level of uncertainty and risk is not acceptable for something this important.

I urge you to vote NO on HJR2 to protect our Constitution from the unintended consequences of an experimental convention.

Thank you again for your time and attention.

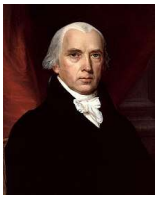
Appendix A- Sample Constitutional Scholars Against an Article V Convention

NOTE: Many more reference sources can be provided upon request.

Sample Legal Articles Opposing an Article V Convention

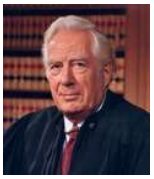
- Michael Stokes Paulsen, Minnesota Law School, Yale Law Journal (Vol 103) 1993
- Federal District Judge Bruce Van Sickle, Hamline Law Review (top 20% of cited Law Reviews)- Fall 1990
- Akhil Amar, Yale Law Professor, Chicago Law Review (1043/44) 1988
- Walter Dellinger, Duke Law Professor, Yale Law Review 1979
- Charles Black, Yale Law Professor, Oklahoma Law Review (Vol 32) 1979
- Paul Kauper- Law Professor, Michigan Law School, Michigan Law Review (Vol 66, Issue 5) 1968

James Madison- "Father of the Constitution"



- Argued against the language of Article V during the original Constitutional Convention (Sep 10 and Sep 15) because the language was too vague. https://oll.libertyfund.org/titles/elliot-the-debates-on-the-adoption-of-the-federal-constitution-vol-5
- Argued against an Article V Convention in his letter to George Lee Turberville (November 1788, 5 months after the Constitution was ratified) https://founders.archives.gov/documents/Madison/01-11-02-0243
- Continued to argue against another Convention in letters to a variety of people, including Thomas Jefferson, Henry Lee, Edmund Randoph and others, almost all of which were after the Constitution had been ratified (so he was talking about an Article V Convention that could get out of control)

Chief Justice Warren Burger



In a letter specifically regarding an Article V Convention:

- *"…there is no effective way to limit or muzzle the actions of a Constitutional Convention… After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda… A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn…"* **Chief Justice Warren Burger, Letter to Phyllis Schlafly, June 22, 1988**

Professor Richard H. Fallon, Harvard Law School

- *"The Constitution allows for the calling of conventions on a petition of enough states, but not limited conventions of enough states. If the delegates decide they don't want to be bound by the (state) resolution, they are right that they can't be bound."* – **Richard H. Fallon Jr., constitutional law professor at Harvard University**

Gerald Gunther- Stanford Law School

- Professor Gerald Gunther ifrom Stanford Law School (one of the top 20 most cited legal scholars of the 20th century and the author of the most widely used constitutional law text in American law schools):
  - *"The dangers stem largely from the fact that it is an uncharted course…The alternative route in Article V is one that has never been taken. This route is obviously legitimate, but it is an unknown…Moreover, the convention would have a plausible case for taking an even broader view of its agenda. Convention delegates could claim that they represent the people who elected them, and that they are entitled to deal with any constitutional issue of major concern to their constituency. The states, quite unthinkingly and without consideration of the implications, have started a process that may eventually produce a shock to them and to the country. It is a process of undeliberate constitution making that would make James Madison turn over in his grave."* – **Gerald Gunther, Constitutional Brinksmanship: Stumbling Toward a Convention, 65 American Bar Association Journal 1046-1049 (1979).**

Professor Bruce Ackerman, Yale Law School-

- Taken from: "Unconstitutional Convention: State legislatures can't dictate the terms of constitutional amendment," The New Republic, Mar 3, 1979.
  - *"[S]tate legislators do not have the right to dictate the terms of constitutional debate. On the contrary, they may be eliminated entirely if Congress decides that state conventions would be more appropriate vehicles for ratification. The states have the last say on amendments, but the Constitution permits them to consider only those proposals that emerge from a national institution free to consider all possible responses to an alleged constitutional deficiency."*