

Leslie D. Mark, Citizen

House District 21 - Mission Hills | ldmark61@gmail.com

8 February 2022

Representative John Barker
Chair, Federal and State Affairs
300 SW Tenth Street, #285-North
Topeka, Kansas 66612

Dear Representative Barker and Members of the Committee,

I am writing to voice my **strong opposition to HCR 5027**: making application to the U.S. Congress to call a convention of the states. This will not be the first time I will have enumerated for you the many reasons contraindicating the proponents' claims for such a measure:

(1) Since the Constitution provides no guidance for ground rules governing a convention, a convention **could write its own rules**. Even more than when I wrote to you in 2019 about HCR 5009, extreme partisanship, the irregular rule of super-majorities in statehouses and fundamental questions as to the legitimacy of delegates or how they would be chosen, would more likely render chaos and anarchy than an operable path forward for America. *(Consider for a moment if every state had one vote in the convention; the convention could approve amendments with a simple majority vote... meaning the 26 least populous states — which contain less than 18 percent of the nation's people — could approve an amendment for ratification.)*

(2) A convention could **set its own agenda**, influenced by powerful interest groups. *(The only constitutional convention in U.S. history, in 1787, went far beyond its mandate. Charged with amending the Articles of Confederation to promote trade among the states, the convention instead wrote an entirely new governing document.)* A convention held today could set its own agenda, too; meaning it's plausible that powerful, well-funded interest groups would influence the process and press for changes to the agenda.

(3) A convention could likely **enact far more sweeping changes** than the Kansas legislators supporting HCR 5027 envision — particularly when one reads the broad language contained in many of the resolutions already passed in other states.

(4) A convention could **choose a new ratification process**. The 1787 convention ignored the ratification process under which it was established; it would be unwise to assume that ratification of the convention's proposals would necessarily require the approval of 38 states, as the Constitution currently specifies.

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(5) **No other body has clear authority** over a convention, including the courts. It is not clear that the judiciary, or any institution, could intervene if a convention chose not to limit itself to the language of the state resolutions calling for a convention.

As a retired judge, Rep. Barker, you can appreciate how quickly things might devolve without agreed to procedure and language. Article V of the US Constitution contains no restrictions on the scope of constitutional amendments (other than those denying states equal representation in the Senate), and the courts generally leave such “political questions” to the elected branches.

There are *many* other practical reasons why this bill should be set aside. For now I leave you with this simple request: Oppose with your vote HCR 5027. It was a bad idea in 2019. It is an even worse idea today

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie D. Mark", written in a cursive style.

Leslie D. Mark