

----- Forwarded message -----

From: **Heather O'Loughlin** <[holoughlin@montanabudget.org](mailto:holoughlin@montanabudget.org)>

Date: Mon, Feb 2, 2015 at 11:21 AM

Subject: JUDICIARY HEARING TOMORROW - calling a constitutional convention

House Judiciary Dems:

As you know, Rep. Monforton's HJ4 is up for a hearing tomorrow. This resolution calls for a federal constitutional convention to pass a balanced budget amendment. Attached, you will find our one-pager raising concerns about this proposal. And below are some suggested questions that you may want to consider.

Former UM professor Rob Natelson will be testifying in support. He is considered the "expert" on this topic and has been pushing a constitutional convention in states across the country. The resolution itself was drafted by ALEC and other out-of-state conservative organizations.

On the other side of this debate is the John Birch Society, a conservative organization with strong opposition to opening up the constitution. We had hoped that UM law professor Anthony Johnstone would be able to come over to oppose, but unfortunately, he has scheduling conflicts.

We strongly urge committee members to AVOID talking about a balanced budget amendment, instead focusing on the lack of certainty in calling a convention. We also strongly urge that you resist asking Rob Natelson questions and instead direct your questions to the John Birch Society.

Topline message:

- 1. We have no idea what a Constitutional Convention will produce.** There is no precedent for limiting the scope of a ConCon.
- 2. Congress will have significant control over a ConCon.** You cannot assume a ConCon will circumvent a Congress that hasn't been listening; rather, Congress will have substantive control over the scope, the process, and number of delegates.
- 3. Montana's voice will not be heard through a ConCon.** We will likely have just a handful of delegates, and large population states will have ultimate control.

Some suggested questions:

**Q: We have only held a Constitutional Convention once – in 1787. What was the intended scope of that convention, and how does that compare to what happened?**

*[Answer: The 1787 convention was called by the Confederation Congress for the "sole and express purpose of revising the Articles of Confederation." As we all know, that is not what happened. The convention completely rewrote the constitution. Furthermore, we have never called an Article V convention, so we have no precedent for what may happen.]*

**Q: Some argue that states have final say on what comes out of a convention, because states have to ratify the amendments. How did this play out in 1787?**

*[Answer: Before 1787, amendments to the constitution were required to be ratified by ALL states. However, Rhode Island refused to attend the convention and opposed any amendments. So convention delegates rewrote the ratification rules, to require only 3/4 approval by states. There is no certainty that the current ratification rules will survive.]*

**Q: According to your research, how many delegates would Montana likely get? Follow up, how many delegates would California get?**

*[Answer: We do not know how many delegates states will get (or how they would even be selected), but it is likely Congress will follow the number of votes within the electoral college. This means Montana would get 3. California would get 55.]*

**Q: What is the status of this out-of-state effort to call a convention? How real is this?** [This question can be directed to myself, Heather O'Loughlin, MBPC:]

*[Answer: This is very real. According to the out-of-state interests pushing this, 24 states have called for a convention. Some did this decades ago, and in fact, many of these states are now considering resolutions to rescind that call. It takes 34 states to call for a convention, and then Congress is obligated to call it. Some states, like South Dakota and Utah, have recently rejected these resolutions, because legislators rightly feared that a convention – once called – could not be controlled by the states and could result in sweeping and unforeseen changes to the Constitution.]*