



## Resolution Calling for a Constitutional Convention: A Threat to Montana's Economy January 2015

### Understanding a Federal Constitutional Convention

- Congress is mandated to call a constitutional convention once 34 states have passed resolutions calling for an Article V Constitutional Convention, at which delegates would propose constitutional amendments.<sup>1</sup> Under current ratification rules, 38 states are then required to ratify the amendment(s).<sup>2</sup>
- Proponents of a constitutional convention claim that 24 states currently have active balanced budget convention resolutions and are targeting an additional 15 states, including Montana, for action in 2015.<sup>3</sup> A bill under consideration in Montana, HJ 4, is nearly identical to the template bill produced by the American Legislative Exchange Council (ALEC), a leading proponent of the convention idea.<sup>4</sup>
- In the 1970s and 1980s, many states adopted resolutions for a convention to require Congress to balance the budget annually. Half of these states later rescinded their applications.<sup>5</sup>
- Recently, South Dakota and Utah rejected resolution efforts, in part, 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.<sup>6</sup>

### A Constitutional Balanced Budget Amendment Would Harm Montanans

- ***Montanan Legislators cannot control what will happen if a constitutional convention is called.*** There is no precedent for how an Article V convention would work. No one really knows what the rules would be, or even who decides. Because the Constitution provides no authority above that of a convention, it's not clear that anyone, including the courts, can stop amendment proposals that go beyond the intentions of state resolutions.<sup>7</sup> The only time a constitutional convention has been held – in 1787 – delegates proposed new constitutional provisions well outside the scope of what the states had originally called the convention to consider.
- ***Montana wouldn't get to decide how its delegates are chosen; that decision likely would be made by Washington bureaucrats.*** Congress has historically asserted its authority to determine the number and selection process for delegates. Article V gives no guarantees that the will of Montanans will be followed.
- ***Even if a convention could be limited to enact a federal balanced budget amendment, this action is dangerous and threatens to weaken Montana's economy, cutting federal support for hundreds of thousands of beneficiaries, and forcing many more out of work in the next recession.*** Research by the economic forecasting firm Macroeconomic Advisors projected that if a federal balanced budget had been in place in 2012, it would have resulted in \$1.5 trillion in spending cuts, caused 15 million more people to lose their jobs, and increased the unemployment rate from 9 percent to 18 percent.<sup>8</sup>
- ***A balanced budget amendment would jeopardize critical public services, including social security, Medicare, farm subsidies, funding for Indian Country, and highway and defense funding.*** Currently, 41 percent of Montana's budget comes from federal funding, which means Montanans would be significantly impacted by federal cuts.<sup>9</sup> A balanced budget requirement would make it unconstitutional for federal programs to draw down accumulated savings to provide benefits to Social Security recipients, Medicare users, the unemployed, and veterans.<sup>10</sup> If a balanced budget amendment had been passed for FY 2011, 193,000 Montanans would have faced reduced Social Security benefits and 160 thousand individuals would have had reduced Medicare support.<sup>11</sup>

*"I certainly would not want a constitutional convention. Whoa! Who knows what would come of it?"*

- Justice Antonin Scalia

## END NOTES

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<sup>1</sup> United States Constitution, Article V, states, “The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress...”

<sup>2</sup> Leachman, Michael et al. *States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment or Other Issues*. Center on Budget and Policy Priorities. July, 2014.  
<http://www.cbpp.org/cms/?fa=view&id=4165>

<sup>3</sup> State figures claimed on website for the Balanced Budget Amendment Task Force. 2014.  
<http://www.bba4usa.org/bba-in-the-states.html>

<sup>4</sup> ALEC’s model bill can be found here: <http://www.alec.org/model-legislation/alecs-balanced-budget-amendment-policy/>.

<sup>5</sup> Leachman, Michael et al. *States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment or Other Issues*. Center on Budget and Policy Priorities. July, 2014.  
<http://www.cbpp.org/cms/?fa=view&id=4165>

<sup>6</sup> Leachman, Michael et al. *States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment or Other Issues*. Center on Budget and Policy Priorities. July, 2014.  
<http://www.cbpp.org/cms/?fa=view&id=4165>

<sup>7</sup> Leachman, Michael et al. *States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment or Other Issues*. Center on Budget and Policy Priorities. July, 2014.  
<http://www.cbpp.org/cms/?fa=view&id=4165>

<sup>8</sup> Kogan, Richard. *Economic Forecasting Firm Harshly Criticizes Proposed Constitutional Balanced Budget Amendment*. Center on Budget and Policy Priorities. November, 2011. <http://www.cbpp.org/cms/?fa=view&id=3611>

<sup>9</sup> Legislative Fiscal Division. *Legislative Budget Analysis 2017 Biennium*. January 2015, <http://leg.mt.gov/fbp-2017.asp>.

<sup>10</sup> Reserves collected over time could only be used to pay for benefits if Congress ran an offsetting surplus or raised taxes. Both options would require large hurdles in both the House and Senate.  
Kogan, Richard. *Constitutional Balanced Budget Amendment Poses Serious Risks*. Center on Budget and Policy Priorities. July, 2014. <http://www.cbpp.org/cms/?fa=view&id=4166>

<sup>11</sup> Montana for Social Security. *Social Security, Medicare and Medicaid Work for Montana*. December, 2013.  
<http://www.socialsecurityworks.org/wp-content/uploads/2013/12/Social-Security-Medicare-and-Medicaid-Work-for-Montana.pdf>