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Kansas Should Reject Call for Constitutional Convention

**Testimony of Michael Leachman
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Center on Budget and Policy Priorities**

**Before the Kansas Legislature's Senate Committee on
Federal and State Affairs**

-Opposition-

Chair Estes and Members of the Committee:

Thank you for the opportunity to submit written testimony on Senate Concurrent Resolution 1611.

My name is Michael Leachman. I am the research director for the State Fiscal Project at the Center on Budget and Policy Priorities in Washington, D.C. We are a research institute that helps states make prudent fiscal policy decisions that build broad prosperity.

The resolution before the committee seeks to call, for the first time in the nation's history, a convention under Article V of the Constitution, at which amendments to the Constitution would be considered. Taking this unprecedented step would put the nation's Constitution up for grabs, putting at risk the cherished rights and freedoms the Constitution enshrines and widening the already great political divisions we see in this country today.

Members of the committee should not accept that claims made by groups promoting this resolution that states can control the actions or outcomes of a constitutional convention. Prominent legal scholars and jurists warn that a convention would open up the Constitution to radical and harmful changes.

The Constitution provides for no powers above that of a convention, and provides no guidance on the operating rules for a convention. Further, because a convention has never been called under Article V, there is no precedent upon which to base a shared understanding of the operating rules.

And yet so much is at stake. As constitutional scholar and Harvard Law School Professor Laurence Tribe has said, “what you’re doing is putting the whole Constitution up for grabs.”

Further, the only constitutional convention in U.S. history, in 1787, went far beyond its mandate. Charged with amending the Articles of Confederation, the convention instead wrote an entirely new governing document. The convention could even change the very rules of ratification as it did in 1787 when it created a new process, lowering the number of states needed to approve the new constitution.

There are no guarantees that the interests of Kansas would be upheld in a convention. A convention held today could also set its own agenda operating under the influence of powerful interest groups. As former Chief Justice Burger wrote, a “Constitutional Convention today would be a free-for-all for special interest groups.” Further, the broad language contained in many of the resolutions that states have passed recently might increase the likelihood of a convention enacting changes that are far more sweeping than many legislators supporting these resolutions envision.

Our Constitution was expertly crafted and has served us well for over 200 years. Americans across the political spectrum hold it dear. In the current environment, any constitutional amendments would be hard-fought and highly controversial — adding to the divisions of this country rather than creating the unity that’s so desperately needed today. A convention that undermines the constitution’s legitimacy with a large share of our citizens would be very harmful indeed.

For these reasons, I respectfully ask that you oppose this dangerous, misguided call for an unprecedented convention that would put our nation’s founding and unifying document at risk.