



Written by [Christian Gomez](#) on March 6, 2017

## John Birch Society Sees Victories in Stopping Con-Con Applications

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For all the time, money, and manpower spent in favor of it this year and despite the claims that America's Founders inserted Article V in the Constitution in order to rein in our out-of-control government, advocates of an Article V convention — most notably the Convention of States Project (COS) — have little to show for it this year, thanks in large part to the work of The John Birch Society and its members across the country.



As of March 1, 2017, COS-type Article V convention applications have either failed to pass or been defeated in at least nine states (Arizona, Arkansas, Kansas, Montana, South Dakota, Utah, Virginia, Washington, and Wyoming).

A year after Tea Party Patriots co-founder Mark Meckler and left-wing Harvard Professor Larry Lessig hosted the ConConCon (Conference on the Constitutional Convention) at Harvard University, Meckler founded Citizens for Self-Governance (CSG) in 2012. With the help of Attorney Michael Farris, founder of the Home School Legal Defense Association and Patrick Henry College, Meckler established COS as a project of the CSG.

Other Article V convention advocacy groups such as the American Legislative Exchange Council (ALEC), the BBA Task Force, and Wolf-PAC support a convention for a single-subject, such as a Balanced Budget Amendment (BBA) in the case of ALEC and the BBA Task Force and a Campaign Finance Reform Amendment (CFRA) in the case of Wolf-PAC. Rather than promoting a single-subject amendment convention, COS instead has a broad goal. COS's broad convention application proposes to "impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of federal government officials." On the surface this may sound limiting, but in the world of modern legal semantics, virtually any type of amendment could be worded in such a way as to fit within the COS parameters, yet have an adverse affect.

And as for COS's claims that the Founding Fathers supposedly drafted Article V for such a time as this, i.e., to rein in our out-of-control government, Kristin Stockheimer accurately [writes the following for The John Birch Society](#), "The founders placed Article V in the Constitution to fix defects and errors in the Constitution; they did not claim it to be the answer to rein in an out-of-control government."

Stockheimer instead points to James Madison's *Federalist*, No. 46, in which he reveals the following solutions for when or if the federal government has extended its power over the states, as it has: "the disquietude of the people" (which is people holding politicians accountable, not reelecting those whom the people are upset with), "refusal to co-operate with the officers of the Union" (nullification), and "legislative devices [to] present obstructions which the federal government would hardly be willing to encounter" (block unconstitutional actions and not comply with them).



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Since COS began convincing state legislators to introduce and sponsor its model of convention application in state legislatures, it has only fully passed in eight states (Alaska, Alabama, Florida, Georgia, Oklahoma, Tennessee, Indiana, and Louisiana).

Although COS is fighting tooth and nail in Texas to achieve its first major victory of the year with HJR 3, COS's scorecard for 2017 remains nine out of nine states rejecting it. The rejecting states, along with their resolution numbers, include Arizona (HCR 2010), Arkansas (SJR 2), Kansas (HCR 5005), Montana (HJR 8), South Dakota (HJR 1002), Utah (HJR 3), Virginia (HJR 547 & SJR 312), Washington (HJM 4006 & SJM 8003), and Wyoming (HJR 1).

Below is a succinct state-by-state summary of The John Birch Society's victories in derailing efforts to alter the Constitution via a risky and unpredictable Constitutional Convention or convention of the states, considering the turbulent nature of the nation's political climate and widespread lack of education about the Constitution.

### **Arizona, Arkansas, and Kansas**

After successfully passing in the Arizona House of Representatives by a vote 31 ayes to 27 nays on February 9, 2017, [House Concurrent Resolution 2010](#) (a COS-type Article V convention application) was ultimately defeated in the state Senate by a vote on 13 ayes to 17 nays on February 22, 2017.

On January 30, 2017, [Senate Joint Resolution 2](#) (also a COS-type Article V convention application) failed to pass on the floor of the Arkansas State Senate by a vote 17 ayes to 17 nays. And in the Sunflower state, [House Concurrent Resolution 5005](#) (COS-type) never made it out of the House of Delegates Federal and State Affairs Committee, failing to pass by a vote of 9 ayes to 13 nays.

### **Montana**

In the Treasure state or Big Sky Country, a COS-type "joint resolution for a convention of the states to impose federal fiscal limits" ([HJR 8](#)) was introduced by state Representative Brad Tschida (R-97). Despite being the main sponsor of the COS-type convention application, Representative Tschida is being heralded as a hero for his honesty and humble integrity.

On February 15, 2017, when it came time to vote on his resolution in committee, rather than providing a solid defense of the resolution, Tschida did the unexpected. Instead, he courageously admitted he was wrong and recommended that his fellow colleagues on the committee likewise reject his resolution. "I guess we can always do one of two things in these situations. We can staunchly defend why we took the position we did even though we know it's wrong and try to make a solid argument out of it or we can admit that we were wrong or had the wrong tool to try to address a matter," [Tschida told the committee](#).

"A [convention] of states under Article V is not necessarily meant to change the behaviors of individuals that we know are inappropriate or at least we believe to be inappropriate," Tschida added. Instead, he acknowledged the actual purpose behind Article V. "Article V is meant to correct deficiencies and errors in the Constitution." He concluded with a recommendation that HJR 8 be tabled and that's exactly what the committee did the following day.

Tschida's change of attitude about his resolution was brought about by an honest reflection of new information that was brought to his attention by former JBS employee and constitutional scholar Robert Brown during an [on-air radio discussion](#). Although Tschida was invited to speak in defense of his resolution for a convention of states, Brown, who spoke in opposition, successfully managed to convince Tschida to reconsider his position.



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Tschida went from being an Article V convention proponent to being a convention opponent, recognizing the realistic potential that such a convention could have the inadvertent affect of further empowering the federal government or lowering any existing limitations in the Constitution.

### **South Dakota**

COS put a lot of effort, time, and resources into passing its Article V application ([HJR 1002](#)) in the South Dakota Legislature, initially, HJR 1002 passed out of the House State Affairs Committee by a vote of 10 ayes to three nays on February 6, 2017. Two days later, however, the resolution was narrowly defeated on the floor of the House by just three votes (31 ayes to 34 nays).

Mark Meckler, who had flown into South Dakota to convince legislators to support HJR 1002 and be present when the vote occurred, [called in to the Mark Levin Radio Show](#) attributing their loss to [The John Birch Society](#) and [Concerned Women for America](#). “We’ve got, as you described, believe or not, 12 people from The John Birch Society and an organization called Concerned Women for America out there spreading false rumors about some crazy idea of a runaway convention, and we’ve got a bunch of these legislators losing their spine,” Meckler said. (Emphasis added.)

Not mincing any words, Meckler continued his attack on South Dakota state legislators. “The founders gave us this gift in Article V. They bequeathed this to us for a time just like this and these legislators don’t have the spine.” He added:

I talk to these legislators all the time and honestly more and more of them are on board, so I’m encouraged by that, but yet these folks [have] *no logic, they won’t listen*. And Mark when people are scared and when they’re acting from fear they’re not rational and these folks right now some of them in South Dakota [are] not rational, *no spine, or they’re Trump drunk*, they think Trump is going to fix everything. [Emphasis added.]

COS quickly mobilized its supporters to convince the South Dakota House to vote for a reconsideration of the resolution. Though a revote was held, Meckler’s remarks on the radio were not well received by legislators. In fact, they lost votes. The revote for HJR 1002 was held on February 13, 2017 and resoundingly failed, by an even wider margin than before (28 ayes to 40 nays).

The aye column lost three votes from the first vote, while the nay column gained an additional six. South Dakota state Senator Tim Goodwin (R-30) changed his vote from aye in the first vote to nay in the revote when he learned that there was no guarantee that at an Article V convention of the states each state would necessarily each get one vote as COS previously told him — Article V doesn’t tell how such a convention must be held or how a consensus must be determined. Meanwhile JBS members also passed out information packages to help educate legislators more about the dangers of an Article V convention.

In retribution to this humiliating defeat, pseudo-constitutionalist talk-radio host Mark Levin, a staunch ally of COS and author of the pro-Article V convention book *The Liberty Amendments*, took to the airwaves [spouting additional scurrilous insults](#) about the very legislators that both he, Meckler, and COS had tried to woo over to their side. Levin said:

So you have these *fools in state legislatures* all over the country who pretend to be conservatives, who will tell you, ‘hey look nobody is smarter than the framers of the Constitution in Philadelphia. We can’t open it up to the liberals like this,’ while they are *whining about abortion and whining about state’s rights* and no d\*\*n well there’s not a thing they can do about it *in the Virginia Legislature, the South Dakota Legislature, [and] the Wyoming Legislature*. [Emphasis added.]



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Levin concluded his tirade by shouting; “If this thing [the convention] is killed it’s going to be because of these so-called conservative organizations [referring to The John Birch Society and others] and these *phony conservatives in these state legislatures.*” (Emphasis added.)

Of course, the disparaged organizations would be nothing without their active members. Speaking of the grassroots work of JBS members in the state, Eldon Stahl, The John Birch Society coordinator for South Dakota, told *The New American*, “I just want them to know how much their efforts make a difference.” Stahl continued, “Don’t ever underestimate your ability to make a big difference for freedom, because without them being involved it just wouldn’t have happened.” Stahl is right.

## **Utah**

In the state of Utah, where [House Joint Resolution 3](#), a COS-type Article V convention application, initially passed in the state House by a vote of 45 ayes to 29 nays and then unanimously passed out of the state Senate Government Operations and Political Subdivisions Committee by a vote of five ayes to zero nays, it, too, was ultimately defeated. On February 23, 2017, HJR 3 failed to pass in the Senate by a vote of 12 ayes to 16 nays.

Once again, the COS came across as petulant. While in an e-mail sent almost immediately after the vote, Bliss Tew, the regional field director of The John Birch Society, thanked the hard work of those who worked to educate Utah legislators about the ramifications of such a convention and ultimately stop it — “I’m grateful for all the cooperative work done by JBS members in Utah and at JBS HQ” — the COS’s e-mail “ALERT” to its supporters referred to the Senate vote as “cowardice” and “vexing.” “When acts of cowardice in one state impact the entire nation, it’s up to us, the American people to hold them accountable. Yesterday, the Utah Convention of States resolution HJR 3 failed in the Senate,” the COS e-mail began.

Ironically, though the COS called for the accountability of state legislators who disagreed with it, the COS opposes state nullification of unconstitutional federal laws, which is the states’ ultimate expression of federalism in the spirit of the 10th Amendment, which simply states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

## **Virginia**

In Michael Farris’ home state of Virginia, COS-type applications [HJR 547](#) and [SJR 312](#) were both tabled (killed) in the Virginia House of Delegates and Senate Rules Committees, respectively, never even making it to a vote on the floor of their resolution’s respective originating legislative chambers.

In addition to the COS-type Article V convention applications, the Virginia General Assembly also failed to pass the even more threatening BBA Article V convention applications [HJR 551](#) and [SJR 232](#). On January 31, 2017, the Rules Committee in the Virginia House of Delegates unanimously tabled (killed) HJR 551 by a vote of 15 ayes to zero nays. In the Virginia Senate, SJR 312 was left in the Senate Rules Committee prior to adjournment, effectively killing the resolution.

## **Washington and Wyoming**

In the state of Washington, both of the Wolf-PAC-type Campaign Finance Reform Amendment (CFRA) Article V applications in the House ([HJM 4003](#)) and in the Senate ([SJM 8000](#)) missed the required deadline dates to leave their committees, effectively stopping them from passing in 2017. Also, both the COS-type applications in the House ([HJM 4006](#)) and in the Senate ([SJM 8003](#)) missed the deadlines in order to leave their respective committee.



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On January 30, 2017, the COS-type application ([HJR 1](#)) was resoundingly defeated on the floor of the Wyoming House of Representatives by a vote of 18 ayes to 42 nays. Unfortunately, a BBA application ([HJR 2](#)) passed in the House by a vote 35 ayes to 23 nays and subsequently in the Senate by a vote 20 ayes to 10 nays, therefore making Wyoming the 29th state with an active or live application for a Constitutional Convention to propose a Balanced Budget Amendment (BBA) to the Constitution.

## **Wrap Up**

In state after state, on the heels of emotional appeals and bantering that is separated from the realities of Article V, convention proponents have, for the most part, failed to convince state legislators of the need for a convention or to accurately address the many points brought up by The John Birch Society and its members across the country. The John Birch Society and its members have continued to prove time and again that truth ultimately overcomes even well-funded lies and misinformation. Money and sensational emotionalism can only go so far, but the range of truth is limitless. This is how The John Birch Society has successfully stopped Article V convention applications from passing in multiple state legislatures so early in 2017.



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