



Written by [Steve Byas](#) on October 14, 2016

National Federation of Independent Business Supports BBA Con-Con

When Wilson Harder launched the National Federation of Independent Business (NFIB) in 1943, his goal was to give a voice to the small business owners of America. He left a position with the National Chamber of Commerce mostly because he opposed what he saw as an overly cozy relationship between the federal government and big business, which operated to the detriment of small business owners.



From just a handful of businesses, the NFIB has grown over the years to several hundred thousand business members. Its agenda is determined by a one-vote balloting process of its membership. The NFIB is credited (or blamed, depending on one's viewpoint) with defeating "HillaryCare" in 1994, and the organization made a gallant effort to stop ObamaCare, serving as the plaintiff in the Supreme Court case *NFIB v. Sebelius*, falling short by a 5-4 decision from killing the program it declared was unconstitutional.

Yet, the NFIB is among the conservative organizations that have fallen for the mistaken idea that there must be a Balanced Budget Amendment to the Constitution, and a national Constitutional Convention is a necessity to make that happen.

In addition to lobbying Congress on behalf of the small business owners of America, the NFIB also fights for this group in the state legislatures. Most years, the legislative scorecard of the NFIB is an excellent guide, as they say themselves, "in evaluating your legislator's attitude toward small business." This past year, the NFIB issued a scorecard on Oklahoma's legislators in which lawmakers were rated on their support for a resolution to ask Congress to call a Constitutional Convention, for the expressed purpose of proposing a federal balanced budget amendment.

In the scorecard, SJR 4 was referred to as the "Federal Balanced Budget Resolution," but the real issue of that resolution was whether to call for a Constitutional Convention. In bold letters, the scorecard reads, "Federal Balanced Budget Resolution (SJR4)." Then, in lighter letters, the description states, "Supports an Article V Convention of the States for the purpose of proposing a federal balanced budget amendment to the U.S. Constitution."

This is misleading.

NFIB members answered a survey, in which they supported the idea of a balanced budget by the federal government. Certainly it is a good idea for government at all levels to not spend more than it receives in taxes, and such should be the norm. The reason many legislators voted against this joint resolution is not because they are in favor of runaway spending, but rather because they fear a Constitutional Convention. In fact, for the most part, the most conservative members of the Oklahoma Legislature voted *against* the resolution. State Representative Jason Murphy, a Republican from Guthrie, is a good example. Murphy has maintained a perfect 100-percent conservative score during several years in the state House of Representatives, as measured by the "Conservative Index" of the



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Oklahoma Constitution newspaper. (The *Oklahoma Constitution* has been rating legislators on their fidelity to the Constitution, free enterprise, limited government, individual liberty, and traditional standards since 1979.)

Yet the NFIB scorecard will lead its members in Oklahoma to conclude mistakenly that lawmakers who opposed this resolution are just opposed to a federal balanced budget. This is unfair.

So why did these legislators, generally the most conservative members of the Oklahoma Legislature, oppose this resolution to call for a Constitutional Convention? While it is not known why each specific legislator voted as he or she did, there are three good reasons to oppose a con-con. One, the Constitution is not the problem. Two, all Article V conventions would have the inherent power to be runaway conventions. And three, an Article V convention would enable powerful special interest groups to revise the Constitution in their favor.

Once a convention is called, it cannot be limited to a single subject. When the Constitutional Convention of 1787 was called by the Congress of the Articles of Confederation, it was for the “sole and express purpose” of *revising* the Articles of Confederation. Now, we are fortunate that the Constitution of the United States that emerged from that convention is the excellent document we have today. But James Madison remarked soon after that convention concluded that he feared for the future of the country if another such convention were called. While what had been produced was a document he strongly supported, he in no way wished to risk another such convention.

The problems with our government today do not lie with our Constitution. It is that members of Congress, the president, and the Supreme Court do not follow it. Would they follow a new Constitution, or even one new amendment to it, any better than they follow the original document?

After all, the First Amendment forbids Congress from abridging the freedom of speech or the freedom of the press. Yet, only seven years following its adoption, Congress proceeded to enact the Sedition Act, which abridged freedom of speech and freedom of the press.

Those conservative legislators in Oklahoma did not vote against this resolution because they oppose a balanced budget. They voted against the resolution because they fear any convention called could become a “runaway convention.” Many liberals actually want to see such a convention, so they can change the Second Amendment (which they consider antiquated), or so they can limit political speech.

Those who argue that the Constitution requires ratification of three-fourths of the states to approve of any action by any such Constitutional Convention should know that the Articles of Confederation required unanimous approval to change it. Yet the delegates at the 1787 Constitutional Convention simply changed that provision to require ratification of only nine states, rather than all 13 states.

Perhaps a modern runaway convention would alter our present ratification requirement. After all, as it stands now, constitutional provisions are routinely ignored by those in power. And if such a nefarious thing happened, just who would stop it?

The Supreme Court? Are you kidding? High Court judges routinely give deference to congressional expansion of power, so they would be expected to acquiesce in the decisions reached at a Constitutional Convention.

And what about an amendment to the federal Constitution to require a balanced budget? Would that actually be a good thing? The legislators in Oklahoma know that their state has had a provision in its state Constitution that dictates a balanced budget, yet it is circumvented all the time through bond



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sales and the like. We could expect members of Congress to find ways around such a provision in the federal Constitution as well, in the same present fashion as they are currently ignoring its restrictions.

In addition, a balanced budget amendment (BBA) to the Constitution has some inherent problems of its own. BBA advocates fail to address the principal factor causing the unbalanced spending they propose to solve. That factor, of course, is *unconstitutional spending*.

Nothing in a BBA, as it is currently proposed, would require a limitation on spending. Theoretically, the budget could be balanced by massive tax increases.

The BBA also diverts attention away from the central issue at stake, which is that Congress is spending enormous sums of money on programs for which it has no constitutional authority. Moreover, a BBA would likely just legitimize these usurpations of powers by officials in all three branches of the federal government, by ignoring unconstitutional spending. Some constitutionalists have compared federal spending with what is actually authorized in the Constitution, and argue that about 80 percent of federal spending is unconstitutional. A BBA would not even address this problem, and would, in effect, shift the focus from killing unconstitutional spending to just keeping the government within a budget.

Once a program is funded by the federal government, the pressure is always present to increase its funding. Those who raise any questions about the levels of spending are then routinely condemned as heartless scrooges. Because of this, the pressure under a BBA would be to balance the federal budget on the backs of the taxpayers.

And many of those taxpayers would include America's small business owners, represented by the National Federation of Independent Business. The NFIB has done some excellent work in its representation of small business in the United States. But this is one issue they need to rethink.



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