Letter from Constitutional Law Scholars to the Utah Legislature regarding HJR 7 and HJR 14

We, the undersigned constitutional law scholars, urge the Utah legislature to reject resolutions calling for a constitutional convention for purposes of proposing amendments to the United States Constitution, as proposed by HJR 7 and HJR 14 in the 2015 General Session of the Utah Legislature.

First, it is important to recognize that a constitutional convention cannot be limited to a particular subject. Once a convention is held, any amendment can be proposed. As retired Chief Justice of the U.S. Supreme Court Warren Burger wrote in 1988,

…there is no effective way to limit or muzzle the actions of a Constitutional Convention. The Convention could make its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or to one issue, but there is no way to assure that the Convention would obey. After a Convention is convened, it will be too late to stop the convention if we don't like its agenda.

Thus, a constitutional convention could just as easily result in greater restrictions on our freedoms as it could in producing a balanced budget amendment. It is largely for this reason that groups from across the political spectrum oppose a constitutional convention.

Second, a convention is unnecessary. Article V of the Constitution lays out the means for amending the Constitution through the political process. While elaborate, that amendment process safeguards our liberties much more effectively than would a constitutional convention. Moreover, the nation has amended the Constitution 27 times since 1789, in each case through the regular, congressionally initiated process laid out in Article V of the Constitution.

For these reasons, we urge the rejection of HJR 7 and HJR 14.

Sincerely,

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