



EXECUTIVE SUMMARY

of the CONVENTION OF STATES PROJECT



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Introduction

The root of the frustration felt by citizens across America is that our federal government does whatever it wants, and there is nothing ordinary citizens can do about it. It doesn't seem to matter who they send to represent them in Washington, D.C. They have lost control of their government.

This is a systemic problem that requires a systemic solution. A convention of states to propose constitutional amendments is that solution. It is the people's final "check" on D.C., exercised through their state legislators; the ingenious plan of the Founders to make state legislators' ambitions (for state power) counteract federal officials' ambitions (for federal power)—for the good of the people.

While there is nothing "wrong" with the Constitution, the problems we now face are undeniably the result of constitutional interpretations that capitalize on ambiguities in the wording of certain phrases (i.e., the general welfare clause). Conservatives like to say that federal officials "ignore" the Constitution, but what they actually do is creatively "lawyer" around its limitations. We can restore the federal government to its proper, limited place only by clarifying the original meaning of certain constitutional phrases through constitutional amendments—effectively overturning bad Supreme Court precedents that have eviscerated our federal system.

The Convention of States Project's resolution seeks to do this by using the tool given to the states in Article V. It calls for an Article V convention to propose amendments that "impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress."

How The Process Works

Article V of the Constitution provides two ways in which amendments may be proposed: Congress may propose them, or upon application of 2/3s of the state legislatures (34 state legislatures) Congress must call a convention for proposing amendments. Regardless of which way amendments are proposed, they must always be ratified by 3/4s of the states (38 states).

Opponents of the process say that because Article V itself is silent as to the procedural details of a convention, we have no idea how the meeting would function. While it's true that there has never been a convention under Article V, the states have met in conventions at least 33 times and are well acquainted with the process. There is a clear precedent for how these meetings work.

In fact, many of the Framers had attended one or more conventions, and the basic procedures at a convention were [always the same](#). For instance, voting at an interstate convention is always done as states, with each state getting one vote, regardless of population or the number of delegates in attendance. State legislatures choose and instruct their delegates to the convention and delegates are legally bound to follow those instructions.



The more detailed, parliamentary rules of the convention are decided at the convention itself. The Convention of States Project has a complete, detailed draft of convention rules ready for the convention to move for adoption, [available here](#).

Background on Convention of States Project Movement

- The Convention of States Project was Founded by Mark Meckler, Co-Founder of Tea Party Patriots and President of Citizens for Self-Governance, and Michael Farris, Founder of Home School Legal Defense Association and Patrick Henry College, and current CEO of Alliance Defending Freedom.
- In addition to Sen. Jim DeMint and retired law professor Robert Natelson, who now serve as Senior Advisers to the organization, major supporters include Sen. Marco Rubio, Gov. Greg Abbott, The Honorable Jeb Bush, The Honorable Ben Carson, Mark Levin, Sean Hannity, Glenn Beck, The Honorable Mike Huckabee, The Honorable Sarah Palin, Gov. John Kasich, The Honorable Bobby Jindal, Col. Allen West, The Honorable Kenneth Cuccinelli, Sheriff David Clarke, Lt. Bill Cowan, David Barton, Rep. Jeff Duncan, Sen. Ben Sasse, Sen. Jim Talent, Ben Shapiro, Charlie Kirk, and Pete Hegseth. The late U.S. Senator Tom Coburn was one of the leading proponents of COS and also served as a Senior Adviser to the Project.
- Fifteen states have already passed the Convention of States Project's application (Florida, Georgia, Alaska, Alabama, Tennessee, Indiana, Oklahoma, Louisiana, Arizona, North Dakota, Texas, Missouri, Arkansas, Utah, and Mississippi).
- The Convention of States Project application has been introduced in 49 states over the past 3 years. In addition to the 15 states that have achieved final passage of the application, several other states have passed it one legislative chamber.
- Conservative legal heavyweights supporting the Convention of States Project include Robert P. George (McCormick Prof. of Jurisprudence at Princeton University), Randy Barnett (architect of the NFIB's challenge to the Affordable Care Act), Ambassador C. Boyden Gray (counsel to George H.W. Bush), Mat Staver (VP and Prof. of Law at Liberty University), Andrew McCarthy (former. Chief Asst. U.S. Atty. for NY, who lead terrorism prosecution against the "Blink Sheik"), Dr. John Eastman, (Dir. Ctr. For Const. Jurisprudence – Chapman Univ. Fowler School of Law), Charles Cooper, (clerk for SCOTUS Justice

Rhenquist, and Asst. Atty. Gen. for Office of Legal Counsel, Reagan Administration), **Professor Nelson Lund** (2nd Amendment scholar, George Mason University School of Law), and the world's foremost expert on the history of Article V and interstate conventions, **Professor Robert Natelson**. All of these individuals (and others) serve on the Legal Board of Reference advising the project.

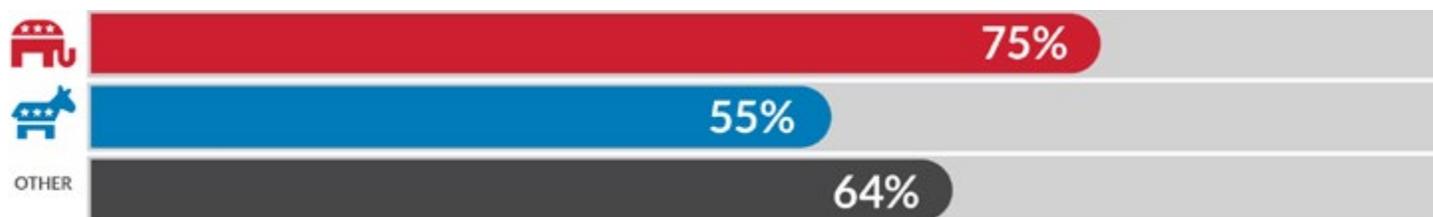
- In July, 2015, **ALEC** (American Legislative Exchange Council) adopted the Convention of States Project application for an Article V Convention as model policy language for the states.
- Within weeks of its formation in 2015, the **Convention of States Caucus** boasted a membership of over 200 committed state legislators from 40 different states. Our membership is now over 250.
- In September, 2016, Citizens for Self-Governance (the parent organization of The Convention of States Project) hosted a [Simulated Article V Convention](#). We achieved participation from all 50 states, including 122 sitting state legislators and 15 non-legislator citizens, for a total of 137 commissioners. The event unfolded flawlessly, demonstrating for the first time that the Article V convention process is safe, that the COS Caucus model rules work well, and that the process would be an effective way to curb federal power.
- On November 1, 2017, PragerU published a video about the Convention of States Project, entitled "[How the States Can Save America.](#)" As of December, 2017, it had already been viewed over 10 million times.

This movement has **significant participation from grassroots**, with further potential for mobilization:

- More than 57,000 people follow the Convention of States feed on Twitter.
- On Facebook, the COS pages (a dedicated page for every state, as well as a national page) have over 4,000,000 supporters.
- Petitions in support of the Convention of States project have been submitted to legislators in 100% of all state legislative districts in the country.
- State level volunteer leadership teams are in place in all 50 states. Volunteer District Captains are in place in thousands of state legislative districts.

Relevant Polling Data

Polling conducted across the nation indicates that, on average, 66% of voters across party lines support the Convention of States Project resolution. That includes 75% of Republicans, 55% of Democrats, and 62% of "others."



Types of Amendments That Could Be Proposed

- A balanced budget amendment
- Imposition of Generally Accepted Accounting Principles (GAAP) for Government Accounting
- A single subject amendment – limiting congressional bills to a single subject
- A redefinition of the General Welfare Clause back to original intent
- A redefinition of the Commerce Clause back to original intent
- A prohibition on using international treaties and law to govern the domestic law of the United States
- A limitation on using Executive Orders and federal regulations to enact laws
- Placing an upper limit on federal taxation
- Requiring a super-majority vote for all tax increases
- A religious freedom amendment, prohibiting the government from further interference with our religious freedoms
- Regulatory curtailment by forcing Congress to vote on regulations instead of deferring law making to regulators

The “Runaway Convention” Myth

Some people contend that our Constitution was illegally adopted as the result of a “run-away convention.” This has been disproven as a matter of historical fact. Michael Farris recently published a [comprehensive article](#) in the Harvard Journal of Law and Public Policy refuting the idea that the Constitution Convention of 1787 was a “runaway” convention. Below is a summary of the relevant facts:

The claim that the delegates disobeyed their instructions is based on the idea that Congress called the Constitutional Convention and limited the delegates to amending the Articles of Confederation. A review of legislative history clearly reveals the error of this claim. The Annapolis Convention, not Congress, provided the political impetus for calling the Constitutional Convention. The delegates from the 5 states participating at Annapolis concluded that a broader convention was needed to address the nation’s concerns. They named the time and date (Philadelphia; second Monday in May). The Annapolis delegates said they were going to work to “procure the concurrence of the other States in the appointment of Commissioners.” The goal of the upcoming convention was “to render the constitution of the Federal Government adequate for the exigencies of the Union.”

Congress played no role in calling the Constitutional Convention, and the Articles of Confederation gave them no authority to call such a Convention. The power of Congress under the Articles was strictly limited, and there was no theory of implied powers. The states, however, possessed residual sovereignty which included the power to call this convention.

Seven state legislatures agreed to send delegates to the Constitutional Convention prior to the time that Congress acted to endorse it. The states told their delegates that the purpose of the Convention was the one stated in the Annapolis Convention resolution: “to render the federal constitution adequate for the exigencies of the Union.”

Congress voted to endorse this Convention on February 21, 1787. It did not purport to “call” the Convention or give instructions to the delegates. It merely proclaimed that “in the opinion of Congress, it is expedient” for the Convention to be held in Philadelphia on the date informally set by the Annapolis Convention and formally approved by 7 state legislatures.

Ultimately, 12 states appointed delegates. Ten of these states followed the phrasing of the Annapolis Convention with only minor variations in wording (“render the Federal Constitution adequate”). Two states, New York and Massachusetts, followed the formula stated by Congress (“solely amend the Articles” as well as “render the Federal Constitution adequate”).

Every student of history should know that the instructions for delegates came from the states. In Federalist 40, James Madison answered the question of “who gave the binding instructions to the delegates.” He said: “The powers of the convention ought, in strictness, to be determined by an inspection of the commissions given to the members by their respective constituents [i.e. the states].” He then spends the balance of Federalist 40 proving that the delegates from all 12 states properly followed the directions they were given by each of their states. According to Madison, the February 21st resolution from Congress was merely “a recommendatory act.”

The States, not Congress, called the Constitutional Convention. They told their delegates to render the Federal Constitution adequate for the exigencies of the Union. And that is exactly what they did.

The Article V Convention Has Numerous, Redundant Protections Against a Runaway Convention:

- The scope of authority for the convention is defined by the topic specified in the 34 applications that trigger the convention. These applications are the very source of the Convention’s authority. Any proposals beyond that scope would be out of order, and any single delegate could object to their consideration.
- State legislatures can recall any delegates who exceed their authority or instructions. This is because convention delegates are the agents of their state legislature and are subject to the instructions given by their state legislature. As a matter of basic agency law, any actions taken outside the scope of a delegate’s authority would be void.
- Even if a majority of convention delegates went rogue, and state legislatures failed to stop commissioners from acting beyond their powers, and Congress nevertheless sent the illicit amendment proposals to the states for ratification, the courts would declare the proposals void. While the courts don’t have a wonderful track record in interpreting broad constitutional language, they do have an excellent track record of enforcing clear, technical matters of procedure and agency law. And in numerous judicial decisions, [the courts have protected](#) the historical understanding of Article V procedures. Even if ALL of those protections failed, it borders on insanity to think that 38 states (the requirement for ratification) would ratify an amendment proposed under these circumstances.

Conclusion

An Article V Convention of States is the ultimate constitutional tool given by our Founders to empower the American people to hold their government accountable. The process has numerous safeguards to prevent its misuse and enjoys the overwhelming support of the American people from across the ideological spectrum. Now is the time for a Convention of States.