

A conservative's guide to an Article V convention of the states

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President Obama has done more to ignite interest in the U.S. Constitution than any other president in recent memory—though not in a good way. President “I have a pen and a phone” has repeatedly tried to bypass the constitutional process, encouraging millions of Americans to ask if there is a way to rein him in and restore the balance of federalism.

And they've found one in [Article V of the Constitution](#).

Article V permits both Congress and the states to amend the Constitution. When two thirds of the state legislatures submit an application, Congress must call a “Convention for Proposing Amendments.”

Although states have met in convention numerous times, they have not met for the purpose of amending the Constitution. But that could change because a number of state legislatures are investigating the “state application and convention process.” Here's what conservatives need to know about that effort.

It's an attempt to restore federalism. Every student who takes a government class learns that the Founding Fathers set up a system of “checks and balances.” But that discussion is almost always had in the context of maintaining the balance between the federal government's legislative, administrative, and judicial branches.

But the Founders also established a check-and-balance process between the federal government and the states. One was the requirement that U.S. senators be elected by the state legislatures, which was [changed by the Seventeenth Amendment](#). The other was the Article V convention, which empowers states to pass constitutional amendments.

The states created the federal government, but the Founders were afraid a central government would eventually grow too strong and unresponsive—and they sure got that one right! The Article V convention was intended to maintain that balance of power.

It's a controlled and limited process. So how would the process work? When two thirds of the state legislatures send an Article V application to Congress, it must call the convention. Because states identify the purpose of the convention in the application—e.g. to consider a balanced budget amendment, etc.—the convention is limited to that purpose.

State legislatures would send their delegates to the convention, and those delegates would nominate officers and proceed. If a majority of the delegates—one vote per state—passes one or more amendments, then it follows the standard constitutional amendment process, requiring three-fourths of the states to ratify.

The myth of a runaway convention. There has long been a concern that once the state delegates convene, they could do anything they want. But the convention is limited to what the states applied to consider. Plus, delegates operate under the authority of their state and can be recalled if they are going rogue.

But most importantly, any passed amendments must still be ratified by three-fourths of the states—an extremely high bar that has only been [reached 17 times](#) (excluding the Bill of Rights), and only three times in the past 50 years.

The more likely there would be an Article V convention, the less likely we'd need one. This may sound paradoxical, but stay with me. Congress does not want to give up or share its power. If the states, fed up with Washington's overreach or inability to move widely popular legislation, move forward on an Article V convention, Congress will almost certainly get busy. That's exactly what happened when several states filled an application for a convention to consider the direct election of U.S. senators. Congress got moving and (for better or worse) passed the Seventeenth Amendment.

Elected officials in several states have begun to discuss an Article V convention and its possibilities. [Legal scholar Rob Natelson](#), with the Colorado-based [Independence Institute](#), has been studying the original documents for years and has [published a short handbook](#) (available for download) on the topic for the American Legislative Exchange Council, an association of state legislators.

Of course, an Article V convention of the states is not a panacea for solving all of the country's problems. It's only one tool. But it could be an effective one in restoring the balance of power between the states and the federal government. And it could put the White House on notice that the states have a way of stopping administrative overreach and disregard for the normal legislative process.

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