

Amending the Constitution to Save It

To learn more: hear a podcast of “amending the Constitution to save it” at <http://ivoices.org/>.

During the previous year or so there has been more and more interest in the idea of “amending the U.S. Constitution to save it.”

Several websites are now devoted to that idea. One illustration is the site entitled “[10 Amendments for Freedom](#).”

Amending the Constitution to force the federal government back to Founding principles is not new. It has been done a number of times—and, in general, it has worked.

During the battle over the Constitution’s ratification, the document’s advocates represented that it was a government of limited powers that would not, for example, infringe freedom of religion or the press. The **Bill of Rights** consisted of ten amendments to ensure the new government honored those limits.

The Eleventh Amendment repealed a U.S. Supreme Court case that violated the ratification-era agreement on the scope of the judicial power. **The Twenty-First Amendment** abolished Prohibition, and returned power over alcoholic beverages to the states, where the Founders had placed it. **The Twenty-Second Amendment** restored the two-term presidential tradition set by George Washington. And the **Twenty-Seventh Amendment** was a late ratification of a proposal by James Madison to limit congressional pay raises.

A variety of new amendments is being discussed. Among them are amendments –

- * requiring Congress to balance its budget
- * limiting congressional terms of office
- * imposing a “single subject” requirement on congressional bills.
- * restoring the intended limits on Congress’s use of its Commerce Power.
- * allowing a supermajority of states to veto federal laws.
- * banning unfunded mandates on the states
- * submitting new taxes and tax increases to popular referendum

Some also have proposed repealing the Sixteenth Amendment (empowering Congress to impose an income tax without apportionment among states by population) or repealing the Seventeenth Amendment (thereby restoring election of U.S. Senators to the state legislatures), but neither of those proposals likely could garner the overwhelming public support necessary for passage.

One goal behind all these amendments is to **rein in an out-of-control federal government**. But the necessary two thirds of each house of Congress are unlikely to propose any such limits on their power.

Accordingly, many people are now considering the other method of proposing amendments. The Founders inserted it into the Constitution specifically to enable the states and people to respond when Congress abused or exceeded its power. Under this method, two thirds of the state legislatures can require Congress to call a “**convention for proposing amendments**.” A convention for proposing amendments is NOT a “constitutional convention,” as some have claimed. It is simply a meeting of state delegations that drafts and suggests one or more amendments for the states to consider. Its agenda is subject to state control.

I’m writing a series of three papers for the Goldwater Institute on how the convention process is supposed to work.



The first paper has been republished by the Independence Institute [here](#). The second is [here](#). The third is forthcoming.

Tags: [amendment applications](#), [amendments convention](#), [Article 5](#), [Article V](#), [balanced budget amendment](#), [constitution](#), [constitutional amendment](#), [constitutional convention](#), [constitutional law](#), [convention for proposing amendments](#), [Natelson Rob](#), [Rob Natelson](#)

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