

**RESOLUTION FOR CONGRESS TO CONVENE A CONVENTION TO PROPOSE
AMENDMENTS CONSTITUTING A BILL OF FEDERALISM**

Whereas Article I of the Constitution of the United States begins “All legislative powers *herein granted* shall be vested in a Congress of the United States”; and

Whereas the Congress of the United States has exceeded the legislative powers granted in the Constitution thereby usurping the powers that are “reserved to the states respectively, or to the people” as the Tenth Amendment affirms; and

Whereas the Supreme Court of the United States has ignored the meaning of the Constitution by upholding this usurpation of the powers of the several states and of the people;

To restore a proper balance between the powers of Congress and those of the several States, and to prevent the denial or disparagement of the rights retained by the people to which the Ninth Amendment refers, the legislature of the State of _____ hereby resolves that:

Congress shall call a convention to propose the following articles be added as separate amendments to the Constitution of the United States, each of which shall be valid to all intents and purposes as part of the Constitution when separately ratified by the legislatures of three-fourths of the several States:

[The Bill of Federalism]

Article [of Amendment 1] — [Limits of Federal Power]¹

Congress shall make no law nor delegate any authority, pursuant to its powers in the eighth section of article I, respecting any activity confined within a single state, regardless of its effects outside the state or whether it employs instrumentalities therefrom; but Congress has power to reasonably regulate pollution between one state and another, and to define and provide for punishment of offenses constituting acts of war or violent insurrection against the United States.

Article [of Amendment 2] — [Unfunded Mandates and Conditions on Spending]²

The legislative power shall not be construed to allow Congress to impose upon a State, or political subdivision thereof, an obligation or duty to make expenditures unless such expenditures shall be fully reimbursed by the United States; nor shall the legislative power be construed to allow Congress to place any condition on the

expenditure or receipt of appropriated funds unless the requirement imposed by the condition would be within its power if enacted as a regulation.

Article [of Amendment 3] — [Reserved Powers of States]³

Subject to the requirements of Article VI, every state has the power to regulate or prohibit any activity that takes place within its borders, provided that no state regulation or prohibition shall infringe any enumerated or unenumerated right, liberty, privilege or immunity recognized by this Constitution.

Article [of Amendment 4] — [Recision Power of States]⁴

Upon application of the legislatures of two thirds of the states, any law, regulation or order of the United States shall be rescinded.

Article [of Amendment 5] — [No Federal Death Tax]⁵

Congress shall have no power to lay and collect taxes upon personal gifts or estates.

Article [of Amendment 6] — [No Federal Income Tax]⁶

The sixteenth article of amendment to the Constitution of the United States is hereby repealed, and Congress shall have no power to lay and collect taxes upon personal incomes, consumption or expenditures, but nothing in the Constitution shall be construed to deny Congress the power to lay and collect an excise or sales tax that is uniform throughout the United States. This article shall be effective five years from the date of its ratification.

Article [of Amendment 7] — [Term Limits for U.S. Senators and Representatives]⁷

Section 1. No person who has been elected or served for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six times shall be eligible for election to the House of Representatives.

Section 2. No person who has served as a Senator for more than three years of a term to which some other person was elected or appointed shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

Section 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

Article [of Amendment 8] — [Balanced Budget Veto]⁸

Section 1. For purposes of this article, the budget of the United States for any given fiscal year shall be deemed unbalanced whenever the total amount of the debt of the United States held by the public at the close of such fiscal year is greater than the total amount of the debt of the United States held by the public at the close of the preceding fiscal year.

Section 2. If the budget of the United States is unbalanced for any given fiscal year, the President may separately approve, reduce or disapprove any monetary amounts in any legislation that appropriates or authorizes the appropriation of any money drawn from the Treasury, other than money for the operation of the Congress and judiciary of the United States, and which is presented to the President during the next annual session of Congress.

Section 3. Any legislation that the President approves with changes pursuant to section 2 of this article shall become law as modified. The President shall return with objections those portions of the legislation containing reduced or disapproved monetary amounts to the House where such legislation originated, which may then, in the manner prescribed under section 7 of Article I for bills disapproved by the President, separately reconsider those reduced or disapproved monetary amounts.

Section 4. The Congress shall have the power to implement this article by appropriate legislation.

Section 5. This article shall take effect on the first day of the next annual session of Congress following its ratification.

Article [of Amendment 9] — [Protecting the Rights Retained by the People]⁹

The rights of citizens of the United States include all the enumerated and unenumerated liberties, and privileges recognized by this Constitution. Nothing in this constitution shall be construed to create any conclusive or irrebuttable presumption that a law, regulation, or order of the United States or of a State does not infringe such rights. In any case or controversy in which an abridgment of such rights is alleged, no party shall be denied the opportunity to introduce evidence or otherwise show that a law, regulation or order is an unreasonable restriction on such rights and therefore is unconstitutional.

Article [of Amendment 10] — [No Judicial Alterations of the Constitution]¹⁰

The words and phrases of this Constitution shall be interpreted according to their meaning at the time of their enactment, which meaning shall remain the same until changed pursuant to Article V.

1. As Congress has exercised powers beyond those delegated to it by the Constitution, the powers of states that were reserved by the enumeration of delegated powers have been usurped. The first proposed amendment restricts the power of Congress to prohibit or regulate wholly intrastate activity under the powers enumerated in Article I, Section 8, thereby leaving wholly intrastate activities to be prohibited or regulated by the several states, or be left completely free of any regulations as states may choose. And it negates two constructions adopted by the Supreme Court to expand the reach of Congress under the Necessary and Proper Clause—sometimes called the “Sweeping Clause”—of Article I: that Congress has power to regulate wholly interstate activity that either (a) “affects” interstate activity or (b) uses instrumentalities obtained from outside the state. Lest this restriction on federal power create any doubt, this amendment makes clear that Congress retains the power to regulate interstate pollution and the power to define and punish acts of war and insurrection against the United States, for example, the possession of weapons of mass destruction. This provision leaves untouched the delegated powers of Congress to regulate wholly intrastate activities to enforce civil rights as expressly authorized by, for example, the Thirteenth, Fourteenth, Fifteenth and Nineteenth Amendments; it only restricts the improper construction of the powers enumerated in Article I, section 8 to reach wholly intrastate activity.

2. The second proposed amendment addresses two sources of persistent federal overreaching. The first is federal laws mandating state action necessitating the expenditure of state funds without reimbursing the states for their expenditures. In this manner, the federal government can take credit for adopting measures without incurring the political cost of increasing taxes or borrowing. The second problem addresses is the use of federal spending to accomplish objects not delegated to the United States. For example, the 55 mph speed limit was imposed by the states by conditioning the receipt of federal highway funds upon compliance with this mandate. This amendment makes this type of condition on funding unconstitutional by requiring that any condition placed on the receipt of federal money be within the power of Congress to enact as a standalone regulation, such as the power of Congress to enforce civil rights that is delegated to it by Section 5 of the Fourteenth Amendment.

3. Since the Founding, states have been thought to have what is called a “police power,” but this power is not expressly enumerated in the text of the Constitution. The third proposed amendment explicitly recognizes the power of state government to regulate and prohibit activities within their borders. As specified in the Supremacy Clause of Article VI, no exercise of state power may conflict with any law enacted by Congress pursuant to its delegated powers or with any enumerated or unenumerated right guaranteed by the Constitution. At the same time it expressly protects the powers of states, it also recognizes the limitations imposed by the Constitution on those powers.

4. At present, the only way for states to contest a federal law, regulation or order is to seek an amendment of the Constitution by applying for a constitutional convention to propose amendments that would must then be ratified by three-quarters of the states. This proposed amendment provides an additional check on federal power by empowering the states to rescind any law, regulation or order when two thirds of state legislatures concur this is necessary. Such a power provides a targeted method to reverse particular Congressional acts, administrative regulations, and executive and

judicial orders without permanently amending the text of the Constitution.

5. The fifth proposed amendment forbids Congress from maintaining a tax on estates, sometimes referred to as the “death tax,” or on gifts made during one’s lifetime. Among the many benefits of this provision is to allow businesses and farms to continue to remain in a family by avoiding the need to liquidate the business to raise funds to pay the estate tax.

6. The sixth proposed amendment ends the power of Congress to enact a personal income tax, or to allow circumvention of this restriction by means of a consumption or expenditure tax. Lest the prohibition on a consumption tax raises any doubt, the provision makes clear that Congress retains the power to impose an “excise” or sales tax that is “uniform” throughout the United States. Sometimes called a “fair tax,” a national sales tax would be paid by all persons residing in the United States, whether legally or illegally, without the need for intrusive reporting of their activities. As people buy and consume more, they would pay more taxes, but all their savings and investments would appreciate free of tax. To give Congress ample time to fashion an alternative revenue system, the implementation of this amendment is delayed for five years. Of course, Congress may end the income tax sooner if it so chooses.

7. The seventh proposed amendment establishes twelve year term limits for Senators and Representatives. In 1995, this proposal was introduced in Congress and was approved by the House by a vote of 227-204, short of the two-thirds necessary to propose such an amendment to the states. It phases in these limits by exempting the time already served by incumbent Senators and Representatives to be included in the calculation of the limits on their terms.

8. Many Americans have long desired both a balance budget amendment and a presidential line item veto. *The Problems With Balanced Budget Amendments*: Balance budget mechanisms that have been devised to date present three serious problems: They are highly complex, they typically contain numerous exceptions and loop-holes, and they lack effective means of enforcement. *The Need for a Line Item Veto*: The practice by Congress of aggregating thousands of lines of expenditures into “omnibus” appropriation bills has greatly diminished the veto power that the Constitution reposes in the President. Because of their reluctance to threaten a government shut down, Presidents are loath to veto such bills. Knowing this, Senators and Representatives can load spending bills with pork, knowing that Congress will never have to give an up or down floor vote to a particular line item and that the threat of a presidential veto is empty. By linking the goal of a balanced budget with a temporary presidential line-item veto, the eighth proposed amendment provides a real incentive for Congress to devise a balance budget; if Congress fails to do so, the President would then have a temporary line item veto power over any appropriation in the budget. For example, should Congress enact a budget with a deficit, the President could veto Congressional earmarks and be held accountable for failing to do so. The amendment also ensures that Congress will retain the same power to override any presidential line item veto as it currently has for a traditional veto. The operation and advantages of this measure over other balance budget amendments is explained in detail here: <http://www.cato.org/pubs/pas/pa-487es.html>

9. The existing Ninth Amendment says that “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.” Since the 1950s, however, the Supreme Court has adopted a construction by which any restriction of what it calls the “liberty interests” of the people is upheld as constitutional unless the Court deems a particular liberty interest to be a “fundamental right.” In this way, it has foreclosed any citizen from presenting proof that a restriction on a liberty not deemed to be fundamental is unreasonable. Because enumerated rights such as the freedom of speech are typically considered fundamental and protected, while the unenumerated rights to which the Ninth Amendment refers are deemed unprotected “liberty interests,” the practical result of this is the denial and disparagement of the rights retained by the People in violation of the rule of construction provided by the Ninth Amendment. The ninth proposed amendment provides for the equal protection of all the liberties of the people, whether enumerated or unenumerated, without empowering judges to define unenumerated rights. Instead, whenever a person’s liberty is restricted, that person is allowed to present proof that the restriction is unreasonable and therefore unconstitutional. This amendment will focus on the reasonableness of the government’s justification for restricting liberty rather than on the precise definition of a particular unenumerated right.

10. The tenth proposed amendment ensures that the text of the Constitution remains the supreme law of the land by preventing judges from ignoring or changing the linguistic meaning of the text of the Constitution by “interpretation.” It requires that judges obey the text of the Constitution until it is properly changed by a constitutional amendment. A constitution that is ignored or systematically misinterpreted is a dead constitution. Only if the Constitution is actually followed can it accurately be considered as a “living constitution.”