

**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 the rights “retained by the people” to which the Ninth Amendment refers; and

Whereas the Supreme Court of the United States has ignored or misinterpreted the meaning of the Constitution by upholding this usurpation;

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, the legislature of the State of _____ hereby resolves

First, that Congress shall call a convention, consisting of delegates from the several States selected by procedures established by their respective legislatures, for the purpose of proposing 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; and

Second, that any previous memorial for a convention under Article V of the Constitution of the United States by this legislature is hereby repealed and without effect; and

Third, that copies of this memorial shall be sent to the secretary of state and presiding officers of both houses of the legislatures of each of the several states in the union, the clerk of the United States house of representatives, the secretary of the United States senate, and to each member of the _____ congressional delegation; and

Fourth, that this memorial for a convention is conditioned on the memorials of two-thirds of the legislatures of the several states proposing the exact same language contained in some or all of the following articles, and is to remain in effect unless repealed by resolution of this legislature prior to the memorials of two-thirds of the states being reported to Congress:

[The Bill of Federalism]

Article [of Amendment 1] — [Restrictions on Tax Powers of Congress]¹

Section 1. Congress shall make no law laying or collecting taxes upon incomes, gifts, or estates, or upon aggregate consumption or expenditures; but Congress shall have power to levy a uniform tax on the sale of goods or services.

Section 2. Any imposition of or increase in a tax, duty, impost or excise shall require the approval of three-fifths of the House of Representatives and three-fifths of the Senate, and shall separately be presented to the President of the United States.

Section 3. This article shall be effective five years from the date of its ratification, at which time the sixteenth Article of amendment is repealed.

Article [of Amendment 2] — [Limits of Commerce Power]²

The power of Congress to make all laws which are necessary and proper to regulate commerce among the several states, or with foreign nations, shall not be construed to include the power to regulate or prohibit any activity that is confined within a single state regardless of its effects outside the state, whether it employs instrumentalities therefrom, or whether its regulation or prohibition is part of a comprehensive regulatory scheme; but Congress shall have power to regulate harmful emissions 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 3] — [Unfunded Mandates and Conditions on Spending]³

Congress shall not impose upon a State, or political subdivision thereof, any obligation or duty to make expenditures unless such expenditures shall be fully reimbursed by the United States; nor shall Congress place any condition on the expenditure or receipt of appropriated funds requiring a State, or political subdivision thereof, to enact a law or regulation restricting the liberties of its citizens.

Article [of Amendment 4] — [No Abuse of the Treaty Power]⁴

No treaty or other international agreement may enlarge the legislative power of Congress granted by this Constitution, nor govern except by legislation any activity that is confined within the United States.

Article [of Amendment 5] — [Freedom of Political Speech and Press]⁵

The freedom of speech and press includes any contribution to political campaigns or to candidates for public office; and shall be construed to extend equally to any

medium of communication however scarce.

Article [of Amendment 6] — [Power of States to Check Federal Power]⁶

Upon the identically worded resolutions of the legislatures of three quarters of the states, any law or regulation of the United States, identified with specificity, is thereby rescinded.

Article [of Amendment 7] — [Term Limits for Congress]⁷

No person who has served as a Senator for more than nine years, or as a Representative for more than eleven years, shall be eligible for election or appointment to the Senate or the House of Representatives respectively, excluding any time served prior to the enactment of this Article.

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

Section 1. The budget of the United States shall be deemed unbalanced whenever the total amount of the public debt of the United States at the close of any fiscal year is greater than the total amount of such debt at the close of the preceding fiscal year.

Section 2. Whenever the budget of the United States is unbalanced, the President may, during the next annual session of Congress, 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.

Section 3. Any legislation that the President approves with changes pursuant to the second section 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 in the seventh section of the first Article of this Constitution, separately reconsider each reduced or disapproved monetary amount.

Section 4. The Congress shall have power to implement this Article by appropriate legislation; and this Article shall take effect on the first day of the next annual session of Congress following its ratification.

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

Section 1. All persons are equally free and independent, and have certain natural, inherent and unalienable rights which they retain when forming any government, amongst which are the enjoying, defending and preserving of their life and liberty, acquiring, possessing and protecting real and personal property, making binding

contracts of their choosing, and pursuing their happiness and safety.

Section 2. The due process of law shall be construed to provide the opportunity to introduce evidence or otherwise show that a law, regulation or order is an infringement of such rights of any citizen or legal resident of the United States, and the party defending the challenged law, regulation, or order shall have the burden of establishing the basis in law and fact of its conformity with this Constitution.

Article [of Amendment 10] — [Neither Foreign Law nor American Judges May Alter the Meaning of 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; nor shall such meaning be altered by reference to the law of nations or the laws of other nations.

1. The income tax has vastly increased the power and the intrusiveness of the federal government, far beyond what the framers of the Sixteenth Amendment ever imagined. The first proposed amendment restores the original taxing power of Congress by denying it the power to enact income estate or gift taxes, or to circumvent this restriction by levying an annual tax on net consumption or expenditures. Lest the prohibition on an aggregate consumption tax raises any doubt, the provision makes clear that Congress retains the power to impose a sales tax that is uniform. 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 in taxes, but all their savings and investments would appreciate free of tax. To give Congress ample time to fashion an alternative revenue system — and do away with the IRS — the implementation of this amendment is delayed for five years. Of course, Congress may end the income or estate tax sooner if it so chooses.

2. 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 second proposed amendment restores the Commerce Clause to its original meaning, 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 three 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, (b) uses instrumentalities obtained from outside the state, or (c) is part of a comprehensive national regulatory scheme. 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 Commerce and Necessary and Proper Clauses to reach wholly intrastate activity.

3. The third proposed amendment addresses two sources of persistent federal intrusion into the powers of states. 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 is the use of federal spending to restrict liberty for purposes 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.

4. The framers of the Constitution were profoundly wary of entangling the United States in international legal commitments, so they required two-thirds of the Senate to ratify all treaties, and they assumed that treaties would only reach matters of truly international concern. These principles have been subverted by several misinterpretations of the Constitution. First, the treaty power has been interpreted to reach every imaginable subject, including many subjects of purely local concern. Second, the treaty power has been interpreted as a mechanism to increase the legislative power of Congress, thus creating a doubly perverse incentive: an incentive to enter into new international legal obligations simply to attain increased domestic legislative power. This amendment would correct these errors and restore the original meaning of the Treaty Clause and the Supremacy Clause.

5. The fifth proposed amendment makes it clear that the freedom of speech and press now protected by the First Amendment extends equally to all media, including for example radio and television, as well as to financial contributions to political candidates and campaigns.

6. At present, the only way for states to contest a federal law or regulation is to seek an amendment to the Constitution by applying for a constitutional convention to propose amendments that must then be ratified by three-quarters of the states. This proposed amendment provides an additional check on federal power by empowering the same number of states to rescind any law or regulation when they concur it is necessary. Such a power provides a targeted method to reverse particular Congressional acts and administrative regulations without the risk of permanently amending the text of the Constitution.

7. The seventh proposed amendment establishes congressional term limits by allowing two full terms for Senators and six full terms for Representatives. It phases in these limits by exempting the time already served by incumbents from the calculation of the limits on their terms.

8. 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. While there is great demand for constitutional

requirement of a balanced budget, mechanisms for this that have been devised to date are highly complex, typically contain numerous exceptions and loop-holes, and lack effective means of enforcement. 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.” Section 1 of this proposal elaborates on the original meaning of “rights . . . retained by the people” with language that is adopted from the wording of amendments proposal to the first Congress by state ratification conventions and by James Madison, and from the very similar wording found in several state Constitutions at the time of the Founding. For example, the constitution of Pennsylvania read: “That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are, the enjoying and defending of life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.” Likewise, the Civil Rights Act of 1866 protected the right of any citizen “to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property. . . .” Section 2 corrects the current approach of the Supreme Court that precludes citizens and legal residents from contesting the necessity and propriety of restrictions on their retained rights unless the Court deems the right in question to be “fundamental” and provides all liberties with the same type of protection now accorded the rights of freedom of speech, press, and assembly, and the right to keep and bear arms.

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. And it confirms that foreign law is relevant to constitutional interpretation only to the extent that it casts light on the original public meaning of the constitutional text. 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.”