

Constitutional Amendment: American Constitution

Current efforts by some state legislatures and other groups to amend the U.S. Constitution have brought forth questions about the process for doing so. The Founding Fathers, in crafting the Constitution, believed it should not be easy to amend the nation's founding document and principles.

Authority to Amend the U.S. Constitution

Article V of the United States Constitution outlines basic procedures for constitutional amendment.

1. Congress may submit a proposed constitutional amendment to the states, if the proposed amendment language is approved by a two-thirds vote of both houses.
2. Congress must call a convention for proposing amendments upon application of the legislatures of two-thirds of the states (i.e., 34 of 50 states).
3. Amendments proposed by Congress or convention become valid only when ratified by the legislatures of, or conventions in, three-fourths of the states (i.e., 38 of 50 states).

Amendments Proposed by Congress

To date, Congress has submitted 33 amendment proposals to the states, 27 of which were ratified. The 27th Amendment, which prevents members of Congress from granting themselves pay raises during a current session, was ratified in 1992—202 years after it was first submitted to the states.

The following steps must be completed for an amendment proposed by Congress to be added to the United States Constitution.\

Step 1. *Passage by Congress.* Proposed amendment language must be approved by a two-thirds vote of both houses.

Step 2. *Notification of the states.* The national archivist sends notification and materials to the governor of each state.

Step 3. *Ratification by three-fourths of the states.* Ratification of the amendment language adopted by Congress is an up-or-down vote in each legislative chamber. A state legislature cannot change the language. If it does, its ratification is invalid. A governor's signature on the ratification bill or resolution is not necessary.

Step 4. *Tracking state actions.* Proposed amendments must be ratified by three-fourths of the states in order to take effect. Congress may set a time limit for state action. The official count is kept by Office of the Federal Register at the National Archives. Legislatures must return specific materials to show proof of ratification.

Step 5. *Announcement.* When the requisite number of states ratify a proposed amendment, the archivist of the United States proclaims it as a new amendment to the U.S. Constitution. Actual certification is published immediately in the Federal Register and eventually in the United States Statutes-at-Large.

State legislatures often call upon Congress to propose constitutional amendments.

While these calls may bring some political pressure to bear, Congress is under no constitutional obligation to respond. The U.S. Constitution does not contain a

provision requiring Congress to submit a proposed amendment upon request by some requisite number of states.

Amendment by Constitutional Convention

In addition to constitutional amendments proposed by Congress, states have the option of petitioning Congress to call a constitutional convention. Legislatures in two-thirds of states must agree, however. While the convention process has yet to be triggered, efforts to do so are not new. In fact, they may be “as old as the republic.”

Unofficial sources report convention applications being filed as early as 1789.

Interest in a U.S. constitutional convention has peaked and waned several times over the decades. In the early 1900s, direct election of senators was a hot topic. In the 1940s and 1950s, federal taxing power was the focus of many applications. Two issues came close to triggering conventions during the 1960s to 1990s—apportionment and a balanced federal budget.

The current wave of interest began around 2010. Its focus is not a single issue nor is it being driven by one organization. Various groups are pushing their viewpoints—be they conservative, liberal, populist or progressive—and are urging action. On the one hand, legislation calls for a convention on a broad array of topics, such as limiting authority of the federal government, balanced federal budget, campaign finance reform, congressional term limits or federal debt. On the other hand, some legislation proposes to rescind previous calls for a convention.

The volume of legislation introduced in state legislatures illustrates recent interest.

- 2011—78 bills or resolutions
- 2012—40 bills or resolutions
- 2013—62 bills or resolutions
- 2014—66 bills or resolutions
- 2015—65 bills or resolutions
- 2016—89 bills or resolutions