

# Draft Mandamus Case: The States v. The United States Congress

## Article V of the U.S. Constitution

“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the Application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments ...”

In violation of the Article V mandate to call a convention for proposing amendments on the application of the legislatures of 34 states, Congress has never officially acknowledged, authenticated, stored, or counted Convention Applications.

Evidence:

1. The [Congressional Research Service](#) noted, in 2017, that “According to the National Archives, state applications have traditionally not been collected in a central repository, but are scattered through the holdings of the Center for Legislative Archives...”
2. Congress has created “no legal process” for counting Article V State Applications despite delegating to the Archivist the sole responsibility for determining when “any proposed amendment...has been adopted.”

[Sec. 106b. of the U.S. Code](#) reads:

“Whenever official notice is received at the National Archives and Records Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provision of the Constitution, the Archivist of the United States shall forthwith cause the amendment to be published, with his certificate, specifying the states by which the same may have been adopted, and that the same has become valid to all intents and purposes, as a part of the Constitution of the United States.”

3. States have not been notified by Congress that an Article V Application has been received, authenticated, securely stored, and aggregated with other state Applications toward the Constitution’s “two-thirds” mandate to call the Convention.
4. [H. Res. 5, Section 3](#). Separate Orders (3): Congress is currently disregarding its own rule “to make public purported Applications” listed by “state and year received.” However, even if followed, this rule would not fulfill the requirement of “counting to two-thirds,” as mandated.

**Let Us Vote for a Balanced Budget Amendment Citizen’s Campaign, Inc.**

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5. The proposed [Article V Records Transparency Act of 2017](#) states that it is estimated to take “5 years and \$15 million” to “compile,” but “would not designate as valid,” (i.e., count) any of the 400+ Applications passed since 1789.
6. For the first century of American history, the states pursued their Article V access to the constitutional amendment process almost exclusively through plenary (unlimited) Applications for a convention. In 2018, constitutional scholar Robert G. Natelson published an article in the Federalist Society Review entitled [Counting to Two Thirds: How Close Are We to a Convention for Proposing Amendments to the Constitution?](#), arguing that plenary Applications should aggregate with limited-subject Applications toward the calling of a limited-subject convention.
7. By the end of 1979, Congress appears to have received thirty-nine active Applications for a Convention to Propose a fiscal responsibility amendment, according to records compiled by the Article V Library: <http://article5library.org/analyze.php>. Since that time, the federal government has increased the nation’s debt from \$830 billion to over [\\$30 trillion](#), while the value of the dollar has declined by over 70%.

In the rationale for Nevada’s Application, which appears to be the constitutionally required 34<sup>th</sup>, the legislature noted that “Continuous deficit financing by the Federal Government supports inflationary conditions which adversely affect the national economy and all Americans, particularly those persons with fixed or low income.” Without a convention call, amendment, or national debt solution, America finds itself in inflationary conditions once again. In July of 2022, the [Department of Labor](#) calculated that the Consumer Price Index had risen 8.5 percent over the last 12 months. Previous to the current business cycle, such rates had not been seen since December 1981.

By 2032, the [CBO projects](#) the United States will spend 1.2 trillion dollars annually to pay the interest on the national debt, eclipsing spending on national defense. If deficits and debt are to be brought under control, the States must appeal to the nation’s highest court to finally require Congress to exercise its duty to certify and store Article V Applications in a central repository, make aggregation public, and expeditiously call the Convention for Proposing Amendments “*upon the Application of two-thirds of the states.*”

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