

## Debt Limit Resolution for adoption at the NH GOP Annual Meeting, January 28, 2023

Contact: Jim Rubens, NHGOP member, (603) 359-3300, [JimRubens@gmail.com](mailto:JimRubens@gmail.com)

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### Whereas:

1. The 1979 dollar is now worth 21 cents. National debt was \$845 billion in 1979 and is now \$31.4 trillion and is projected to increase by over \$1 trillion each year. Runaway national debt is swamping the federal budget with debt service, the economy with protracted high inflation, and threatening general prosperity, social stability, national security, and the reserve-currency status of the U.S. dollar.
2. Despite decades of intense effort to elect “better” candidates, Congress has repeatedly failed by statutory means to curb its debt addiction. Since 1979, Congress has also repeatedly failed to approach the two-thirds majority needed to pass a fiscal responsibility amendment.
3. Article V of the U.S. Constitution provides a second and equally valid method by which the states can propose and ratify amendments. Article V reads, in relevant part, “on the Application of the Legislatures of two thirds of the several States, [Congress] shall call a Convention for proposing Amendments, which shall be valid as part of this Constitution, when ratified by three fourths of the several States.”
4. Thirty-four (34) states are needed to trigger a convention call by Congress, and 38 are needed to ratify any proposed amendment. Once 34 states have submitted same-subject applications, Congress becomes subject to a non-discretionary ministerial obligation to specify a date and location for a convention.
5. HCR8, passed by the New Hampshire legislature in 1979, made our state [one of 39](#) having valid applications for a convention limited to the subject of federal fiscal responsibility (when combined with then-unrescinded “[plenary](#)” i.e., unlimited state applications). The New Hampshire legislature rescinded its application in 2010 and readopted a fiscal responsibility application in 2012 via [HCR40](#).
6. From 1979 to date, Congress has failed to count applications and to call an amending convention as required by the Constitution.
7. Multiple safeguards exist to ensure that an amending convention does not “runaway” and adheres to the states’ combined applications limiting the subject matter to fiscal responsibility. To strengthen these safeguards, the legislature is now considering [HCR1](#) and [HB269](#).
8. To compel Congress to count applications and to call an amending convention, several states’ Attorneys General are now considering Writ of Mandamus filings. This multi-state initiative is being led by former U.S. Comptroller General [David Walker](#) and former Virginia Attorney General [Ken Cuccinelli](#).
9. Because no lead state has yet filed and because New Hampshire would have unambiguous standing, our state has the historic opportunity to be lead plaintiff and to lead our nation in adding our hugely successful governing philosophy of fiscal responsibility to the US Constitution.

### Resolved:

We respectfully urge Governor Sununu to advise the New Hampshire Attorney General to file a Writ of Mandamus to require Congress to adhere to the provisions of Article V of the U.S. Constitution and thereby to call a Convention for proposing Amendments limited to the subject of federal fiscal responsibility.

## Amending Convention Safeguards

This resolution is [endorsed by the 603 Alliance](#).

The constitutional safety and use of the state-led Article V amending process is endorsed by the [American Legislative Exchange Council](#), [Convention of States](#), and by Presidents [Reagan](#), [Eisenhower](#) and [Lincoln](#).

“The founders inserted this alternative method of obtaining constitutional amendments because they knew the Congress would be unwilling to give attention to many issues the people are concerned with, particularly those involving restrictions on the federal government’s own power. The founders foresaw that and they provided the convention as a remedy.” [Justice Antonin Scalia](#)

"Since it is undisputed that Congress possesses the authority to propose amendments limited to a single topic or group of topics, it follows that the applications of the states for calling a constitutional convention also may be limited. This understanding is reinforced by the normal practice of the states in limiting by subject their applications to the Congress." [U.S. Dept of Justice](#) (1979)

### Ten (10) structural and precedential safeguards:

- The anticipated Writ of Mandamus filing is almost certain to come before the U.S. Supreme Court, the most constitutionally conservative in our lifetimes.
- None of 41 multi-state conventions to date (11 before 1787, 30 after), have breached subject matter limitations, including the [1787 Constitutional Convention](#). No existing state application seeks a constitutional convention. Detailed history [here](#) and [here](#). No delegate breaches have ever occurred in familiar and ongoing multi-state commissions such as the [Uniform Law Commission](#).
- The only identified subject matter having reached the needed 34 among existing state applications is federal fiscal responsibility.
- Because of this subject matter count, Congress is constitutionally barred from calling an amending convention lacking the fiscal responsibility subject-matter limitation.
- Delegates to an amending convention are selected by the states as legal agents for their state, making state legislatures’ instructions binding. In a unanimous 2020 decision in [Chiafalo v. Washington](#), the Supreme Court affirmed state authority to remove, replace and sanction delegates attempting to exceed their authority.
- Republicans enjoy substantial [party control](#) of the 99 state legislative bodies: R/D = 58/41.
- Fifteen (15) states now have [delegate limitation laws](#) triggering removal and replacement of delegates attempting to breach subject-matter limits. A delegate limitation bill, [HB269](#), is now before the NH House.
- Delegates at a Convention for proposing Amendments have zero power to change the Constitution. Any proposed amendment is null and without effect unless and until ratified by 38 states.
- Should all the foregoing safeguards fail and a majority of delegates were to propose an amendment outside subject matter limitations, Congress would be constitutionally barred from submitting such a rogue amendment to the states for potential ratification.
- And, most protective, any proposed amendment must be ratified by 38 states. Because only 13 of 99 state legislative bodies can kill any proposed amendment, no amendment not having extraordinarily broad public support can possibly be ratified.

[Here is the best available record](#) over U.S. history of all state Article V applications and rescissions. With respect to a fiscal responsibility (balanced budget) amendment, there were 34 or more unrescinded and unexpired state applications during the periods 1979-2001 and 2015-2021. At all times during these periods, New Hampshire was one of these states, has an unrescinded application, and has a statutory state balanced budget requirement.

During the first century of American history, state applications took almost exclusively plenary form. As of year-end 1979, there were 9 plenary and 30 fiscal responsibility single-subject applications, including New Hampshire’s HCR8. To count, plenary (unlimited) applications must be combined with subject-limited applications. See leading conservative constitutional scholar [Rob Natelson](#) in his Federalist Society Review paper.