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Illegal Immigration Spurs Constitutional Amendment

by Joel S. Hirschhorn

Among the millions of Americans frustrated with the refusal by the federal government to forcefully control [illegal immigration](#) is [South Carolina](#) Senator Glenn McConnell. As President Pro Tempore of the Senate McConnell has explained why he is calling for the nation's first use of the US Constitution's Article V provision for a convention of state delegates to propose constitutional amendments.

"While this action is unprecedented, I also believe that the danger facing our country is unprecedented. We need to act now. ...Congress has refused or is incapable of acting, thereby leaving the states in the position of burning while Congress fiddles. ...the problem of [illegal immigration](#) is one that has reached a boiling point," said McConnell, a Charleston Republican.

He notes that if his resolution is approved by two-thirds of states it "would require Congress to call for a constitutional convention." What McConnell has not said, however, is that for many decades Congress has refused to obey Article V and call a convention that sufficient states have already asked for. The one and only requirement in Article V has been satisfied and Congress has no discretion in this matter.

McConnell's proposed constitutional amendment has these provisions:

1. No provision of this Constitution, or any amendment thereto, shall restrict or limit any state from enforcing federal law with regard to [immigration](#) violations. In the absence of proof of legal citizenship status, a state may decide what governmental services funded in whole or in part by the state may be provided to or denied from any undocumented alien located within the state's respective jurisdiction. States shall also have any power to regulate [illegal immigration](#) that has not been specifically preempted by an act of the Congress.
2. In implementing the provisions of this article, each state shall have the authority to prescribe civil and criminal penalties in addition to any provided by federal law for entering the [United States](#) illegally.
3. A state shall also have the power to apprehend and expel persons who are within the state's jurisdiction in violation of federal [immigration](#) law. The federal government must provide timely assistance to the state in expelling undocumented aliens upon request by a state.

Considering the historic record-low level of just 11 percent public support for Congress and the widespread public concern about the many impacts of unchecked illegal immigration, especially on communities and local governments, this call for an Article V convention is

extremely timely. Few Americans are aware of their constitutional right to an Article V convention, provided by the Framers of our Constitution as a kind of escape clause should citizens lose confidence in the federal government. Could it be any clearer that Americans have [lost](#) confidence in the federal government?

While there are many other issues that merit debate by state delegates in an Article V convention, many of which have been proposed in previous state applications, the [illegal immigration](#) crisis has the potential to put enough political pressure on Congress to obey the Constitution and call a convention which it has refused to do thus far. Opponents of both the convention method of amendment and tough [immigration](#) law will assert that 33 more states must apply, assuming [South Carolina](#) acts. Senator McConnell has fallen into this trap. In reality, all 50 states have applied 567 times for a convention. Still, a new [South Carolina](#) application addressing [illegal immigration](#) may bring the failure of Congress to obey the law of the Constitution greater visibility and provoke public anger. We have something worse than a do-nothing Congress; we have a break-the-law Congress.

Americans that laud the Constitution and the rule of law, and want more effective actions to address [illegal immigration](#) - surely a super majority of citizens - should tell their state legislators that they support McConnell's proposal and the call for the nation's first Article V convention.

We have had more than enough talk, lies and spin. Now is the time for meaningful action. American is not a lifeboat that untold millions of poor, suffering people can illegally jump into - not without lifeboat-America sinking into third-world status. The corporate powers behind both the Democrats and Republicans are eager to sell out middle class Americans to get cheap labor. And their control over Congress has created the crisis that Senator McConnell has courageously addressed through a call for an Article V convention. Let's assist his bold effort.

We can expect opposition to the McConnell proposal from a number of [groups](#) that have always opposed using the Article V convention option. On the political left and right are many [groups](#) that fear a convention because they want to maintain their power and the status quo - a political system easily corrupted by corporate and other special interests through campaign contributions and lobbying. They have cleverly propagated the lie that a convention could by itself wreck our Constitution, which is impossible because proposed amendments must be ratified by three-quarters of the states. Elites fear an Article V convention because once convened it is independent of Congress and the White House, and could re-engage distracted Americans in their government by seeing the Article V convention as the means, finally, to reclaim their government. Learn more at www.foavc.org.

[Joel S. Hirschhorn is a co-founder of Friends of the Article V Convention and a former senior official at the Congressional Office of Technology Assessment and the National Governors Association, and the author of *Delusional Democracy - Fixing the Republic Without Overthrowing the Government* at www.delusionaldemocracy.com.]