



Written by [Joe Wolverton, II, J.D.](#) on July 3, 2023

Convention of States: An Amendment Would Force the Feds to Stop Spending Our Money

My final article examining the Convention of States' (COS) ["7 Guidelines for Drafting Proposed Amendments"](#) concerns their mandate that any amendment submitted to them for consideration by those attending their convention has to have one of the following purposes:

- Impose fiscal restraints on the federal government
- Limit the power and jurisdiction of the federal government
- Impose term limits on federal officials



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As I've exposed the redundancy and inanity of the last and next to last, today I'll do likewise to the first: impose fiscal restraints on the federal government.

Let's put the most important consideration first: the U.S. Constitution.

Nowhere in that document is the federal government granted by the states the power either to spend money as it has for over a century now, or to collect it in the manner it does. That fact is irrefutable, even by someone willing to spend millions to make a second constitutional convention a reality.

The U.S. Constitution (as ratified) was not a list of things the federal government *could not* do, it was, rather, a concise and complete list of the *only* things the federal government *could* do. And, we know from the Tenth Amendment (if not from an understanding of the way constitutions work) that if a power isn't granted to the federal government, it remains with the states and the people. That puts the states and the people on guard against federal trespass into places it doesn't belong.

How about a little analogy pretty familiar to all of us:

The Constitution is an employment contract wherein the employee's (the federal government's) job description is laid out in black and white. Just as with any other such contract, if a particular power to act is not listed among those granted to the employee in the terms of the contract, then the employee can't do that thing. Period. Very simple.

Now, of course, the employee may come to see himself as smarter or wiser or subtler or craftier or in some other way superior to the employer. That happens all the time in the workplace. That employee may even occasionally — maybe even routinely! — get away with doing things he doesn't have the authority to do, particularly if the middle managers (the state legislatures) aren't aware of the employee's actions or, if they are aware, they don't really care because they're doing likewise to those below them (city and county governments) or they're just looking to keep their jobs, and keeping employees happy is certainly one way to do that.

Regardless of why or how or how often the employee gets away with doing things his employment



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contract does not allow him to do, the plain fact is, if a virtuous, vigilant, and valiant manager were to come along and call out the employee for his wrongdoing, the only defense the employee would have is that no one ever stopped him before. As for the new manager, he wouldn't be persuaded by what may have happened in the past, and all he would have to do to shut down the employee's unauthorized activities would be to show the employee a copy of his employment contract and point out to him that he was violating the terms of the contract and could be fired. Simple as that.

If, however, such a bold and fearless manager never comes along, then the recidivous employee not only will carry on exceeding the terms of his employment contract, but will be emboldened and consolidate more and more power, having become accustomed to the fact that the corporation is so big no one really notices and the managers are so milquetoast or malfeasant that even if they notice, they rarely reprimand him.

This is where we find ourselves. Our managers — state governments — have failed to prevent the federal government from exceeding the limits of its powers as defined in the Constitution. This neglect has gone on for well over 100 years now and, seeing as how the federal government has substantial control over what's taught in American classrooms, many Americans have been taught that the federal government is superior to the state governments and that the latter can only act with the permission of the former.

The truth, of course, is the opposite of that, but it's as Montesquieu once wrote:

Constant experience shows us that every man given power is likely to abuse it, and to carry his authority as far as he can go until he comes up against limits. To prevent this abuse, it is necessary, from the very nature of things, that power should be a check to power.

In the United States, the federal government's taxing and spending doesn't come up against limits, at least not strong ones. And the abuse of power is not checked by state power because that power rarely exerts itself to any degree that would genuinely prevent federal power grabs or in any meaningful way deter the despots from continually doing whatever they want to do, whenever they want to do it.

So, Convention of States wants to hold a convention to consider amendments that would impose fiscal limits on the federal government. Who, pray tell, is going to enforce these new limits? And why would the federal government suddenly begin obeying the new limits when it has shown no regard or respect for the limits *already* part of the Constitution?

Spoiler alert: *They won't!*

Regardless of the COS rhetoric or how many "conservative" pundits and politicians they pay to peddle their snake oil, no "balanced budget amendment" or such nonsense would drive the federal hogs back inside the constitutional pen. Even the most conservative estimates indicate that about 80 percent of expenditures approved by Congress violate the U.S. Constitution, and new lines added to the Constitution would do nothing to change that fact.

Whether Congress spends our national treasure on unconstitutional and undeclared foreign wars, billions sent overseas in the form of foreign aid in support of foreign civil wars, expanding the so-called entitlement programs, or redistributing wealth via corporate and individual welfare schemes, none of these outlays is authorized by the Constitution.

Finally, back to the analogy: No one is stopping the employee from doing all the unauthorized things he



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has been doing, and pointing out that his employment contract says he's not allowed to do those things hasn't stopped him. And guess what: neither will putting a new paragraph in the contract telling him that he can't do those things — and we really mean it this time!





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