

## Executive Summary

# Constitutionally Avoiding the Fiscal Cliff, Strengthening our National Security and Passing on the American Dream

## The Problem

The Congressional Budget Office [predicts](#) that under current law, annual deficits will average \$1.2 trillion a year over the next ten years. That forecast does not account for the potential that Congress will again exceed spending caps and make the individual income tax cuts permanent. In that case, the U.S. national debt could surpass \$36 trillion by 2028. Interest on that debt could exceed \$2 trillion a year.

Here's what the experts have to say:

The CBO: "Such high and rising debt would have serious negative consequences for the budget and the nation...The likelihood of a fiscal crisis in the United States would increase."

Erskine Bowles, President Clinton's Chief of Staff (Ret.) and Co-Chairman of President Obama's Debt Commission: ["We face the most predictable economic crisis in history."](#)

Admiral Mullens, Chairman of the Joint Chiefs of Staff (Ret.): ["The most significant threat to our national security is our debt,"](#)

Judd Gregg, New Hampshire Governor (Ret.), U.S. Senator (Ret.), Co-Chairman of the Campaign to Fix the Debt and Director of the [Balanced Budget Amendment Foundation](#): ["We are headed over a cliff as a nation...We're on a track that is totally unsustainable."](#)

## The Constitutional Solution to our Nation's "Unsustainable Deficit Spending"

Our Founding Fathers anticipated that there would be a time when the federal government would get off track. That is why they included the [Article V](#) "safety valve" with two methods of proposing an amendment and two methods of ratification.

An amendment may be proposed by a two-thirds vote of both houses of Congress. Alternatively, a Convention for Proposing Amendments "shall be called" by Congress upon receiving applications from two-thirds (34) of the states. Congress has never "called" an Article V Convention for Proposing Amendments, nor has it ever fulfilled its constitutional mandate to count the Article V Applications by subject.

Proposed amendments may be ratified by three-quarters (38) of state legislatures or by three-quarters (38) of state conventions. Twenty-six constitutional amendments have been ratified by state legislatures. The Twenty-First Amendment, repealing prohibition, was ratified by state conventions in 1933.

In “The Ratification of the Twenty-First Amendment,” Everett S. Brown explained:

“In a restricted sense, they satisfied the legal requirement of the Constitution that action be taken by conventions, but not by the greatest stretch of the imagination could they be regarded as deliberative bodies. The ratification of the Twenty-First Amendment by the convention method marks another milestone in the experience of the American people with the processes of democratic government. Further practice may serve to perfect the procedure, but the precedents established on this occasion will serve as guide-posts to future action.”

The Yale Law School Legal Scholarship Repository’s “Liquor Laws and Constitutional Conventions: A Legal History of the Twenty-first Amendment” concluded:

“Dozens of state legislatures passed laws providing for dozens of popular votes on a constitutional amendment for the first time since the Founding. The conventions rubber-stamped the choice of the people. The Eighteenth Amendment restricted the personal liberty of the people; it was fittingly repealed by the people.”

## **What Constitutionally Imposed Fiscal Limits Would U.S. Citizens Support?**

While that question cannot be answered definitively without a national debate and referendum, a [CNN survey](#) found that 74% of Americans support a balanced budget amendment. [Economists](#) are currently studying fiscal limits such as the “[Swiss Debt Brake](#),” which was approved by 85% of Switzerland’s voters in 2001. As a result of the constitutionally imposed “Debt Brake,” Switzerland has slowed the growth of spending, paid down its debt and today has the lowest borrowing cost of any country in the world at [-0.75%](#). Other advanced countries are placing constitutional limits on debt relative to the size of their economies, such as the European Union’s [60% debt to GDP limit and 3% annual deficit to GDP](#).

## **How Can Congress, the States and U.S. Citizens Work Together to Solve the Unsustainable Deficit Spending Problem?**

The Founders’ Article V “safety valve” can be used to draft a U.S. Balanced Budget Amendment through a Convention for Proposing Amendments and ratify via State Conventions as early as November 2020.

Here are the constitutionally prescribed steps:

1. Congress “shall” count the Balanced Budget Amendment Applications.
2. Congress will set the time and place for the Balanced Budget Amendment Convention, upon the receipt of 34 BBA-related applications.
3. Congress will stipulate that ratification of any amendment proposed will be by state convention, which requires a majority vote of the citizens in 38 states to ratify.
4. Congress will pass a law stating that any proposed amendment unrelated to the subject of balancing the federal budget shall be null and void and will not be referred to the states for ratification.
5. While Congress counts BBA-related applications, all fifty state legislatures should update existing BBA-related applications or pass new ones, to join with the 74% of Americans who want to solve the problem of unsustainable deficit spending.
6. When Congress calls the BBA Convention, the state legislatures will need to pass Article V Convention of States [Commissioner Oath, Instructions and Recall Acts](#). More than a dozen states have already done so. Most include recall and criminal charges for any commissioner who proposes an amendment unrelated to the subject of the state’s application.
7. Citizens will share ideas with their state legislators on the fiscal rules of the BBA.
8. The BBA Convention will be the first in American history and will likely focus the nation’s attention on constitutionally addressing a problem that threatens the solvency, security and prosperity of America.
9. The BBA Convention may or may not propose a Balanced Budget Amendment.
10. If a BBA is proposed, the states will pass or update laws regarding convention delegate election, based on the candidate’s pledge to vote for, against or “undecided” on the question of ratifying the proposed BBA.
11. Citizens will then vote for the delegate or delegates based on their pledge.
12. States will hold conventions of delegates elected by the people.
13. The Balanced Budget Amendment will be ratified when 38 state conventions certify that a majority of the citizens in their states have voted for the delegates pledged to ratify the Twenty-Eighth Amendment.

The Swiss Debt Brake was approved by 85% of Swiss voters and stands today as the model of a fiscal rule that: prevented a fiscal crisis, strengthened national security, led to a lower national debt, decreased interest costs and raised the standard of living.

Should we trust Congress to solve the unsustainable deficit spending problem? Or should we use our Founders’ Article V “safety valve,” which gives state legislatures the right to propose and the people the right to ratify a U.S. Balanced Budget Amendment?