

Congress Reaches 35 AVC Count

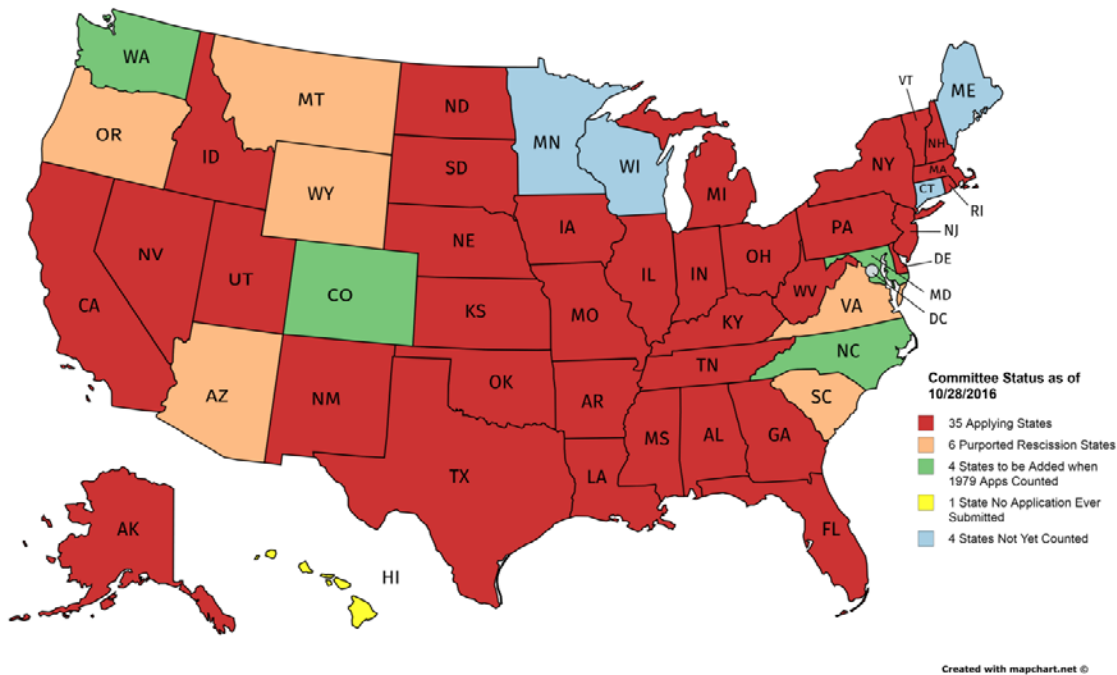
By Bill Walker

(Author's note: On October 28, 2016 the House Judiciary Committee revised its count of applying states to include the state of Nevada which it had previously listed as a "purported" rescission state. Further research by the committee revealed the 1989 "rescission" had been passed by only one house of the Nevada state legislature and therefore was invalid. Taking its place was a 1975 application by the state for a convention call. The title of this story, its links and map has been updated to reflect this change by the committee.)

Finally! As of October, 2016 Congress finally reached a count of 35 applying states for an Article V Convention call. The 35 states comprising the committee list [can be found here](#). A map showing the applying states appears below.

For months the [House Judiciary Committee](#) has been gathering what amounts to an official list of applying states for an Article V Convention call. As [explained elsewhere](#) so-called rescissions by any state do not count as there is no provision in the Constitution which permits states to "rescind" applications. Further federal law prohibits members of Congress from removing federal public record. Therefore all state applications are still valid and in full force.

Indeed the full public record of state applications shows the states have submitted sufficient applications to cause [several convention calls](#). Based on the [total number of applications in the public record](#) and the fact the committee has failed to record over 130 state applications thus far in its collection, it may be some time before the committee produces a totally accurate and complete list of state applications. The committee has been releasing about 12 new state applications each month.



The committee, for example, skipped the year 1979 entirely. The [public record](#) showed that in 1979, seven states (Colorado, Maryland, New Mexico, North Carolina, Indiana, Washington, and Iowa) submitted applications for an Article V Convention. In late September the committee count of applying states stood at 31. Instead of recording the 1979 applications the committee continued backwards in the records. The result was the same but with different states. By going back from 1973 to 1963 the committee recorded the applications of Iowa, Indiana and New York thus completing the necessary set of 34 applications. As noted above the committee later changed the status of the state of Nevada.

Between the years 2016-1973 the committee has failed to record 124 applications thus far showing in the public record. These 124 state applications not counted by the committee include all of the states in the Union except for 12 states: California, Connecticut, Hawaii, Illinois, Kentucky, Maine, Montana, New York, Ohio, Rhode Island, Vermont and Wisconsin. Thus, at least one more set of applications awaits the committee.

Ultimately a tabulation issue will arise. The proper and logical method for counting applications is to start at the beginning that is from the earliest submitted application moving forward in time gathering the applications into sets of two thirds of the states at the final submission of the state application which completes the set. In this way no application is unaccounted for. By reversing the process and starting its count from the present and working backward (not to mention ignoring over a hundred applications with hundreds yet to count) the sets of applications are skewed.

To demonstrate, the committee shows one set of 34 applications in its admittedly incomplete collection, the earliest from the state of Alabama from 1967 and the final application from the

state of California in 2014. Yet [an examination of that same time period](#) when applications are tabulated from earlier to latest shows at least four sets of applications for *four conventions*.

The political questions surrounding the counting of applications will, now that Congress has officially acknowledged sufficient applications exist to cause a convention call, shift to the question of how many conventions should be held. Obviously those favoring a limited, electoral excluded, prearranged agenda convention such as Convention of States (COS) and Compact for America (CFA) will favor the single convention excluding all but their own applications. Thus hundreds of applications and many amendment subjects will be tossed in the dust bin before a convention even starts if COS/CFA have their way.

It should be noted that Congress is not counting state applications by amendment subject. Instead the committee is only gathering the applications by state and date which is a numeric count of states. The rule that established authorization for the committee count does not describe amendment subject nor has Congress ever considered amendment subject as the basis to count applications. This approach will lead to a multitude of conventions, each called on the basis of one set of state applications, each set comprised of two thirds of the several states in the Union.

The more politically savvy will welcome as many conventions as the applications cause (at present ten conventions). Spaced out over a period of several years, the several conventions permit proponents of amendments subjects that might not have the necessary support in a single convention to develop a consensus that can see their proposal approved by the convention. Freed from the labor of having to obtain new sets of applications which can take decades, political concentration can be applied where it should be—at working on the problems this nation faces by use of the amendment process.

It will take a few conventions to get all the political kinks worked out. After all this will be first time in United States history this nation will operate under the full United States Constitution as designed by the Founders. The first convention will probably be so constrained by the unfounded fears of “runaway” and so forth little if anything will be accomplished. The second convention will shake off some of the fear as people finally wake up to the fact a convention is not Armageddon, nor is it a panacea for all problems of this nation.

The third convention will be the model for all other conventions to follow. By that time all involved will be politically experienced. The American people will know what they can expect at a convention and more importantly know what kind of candidate they want for the office of delegate. While the political establishment may want to control a convention, the basic fact a convention is entirely issue oriented and requires supermajorities to get an amendment enacted will cause the building of bridges and the reaching of consensus of opposing positions. These facts will always make the convention a completely different political animal separate from the rest of our political experience.

It cannot escape anyone’s notice that two major events occurred within days of each other in regards to an Article V Convention. The Convention of States held their convention on September 23, 2016. According to the letters sent by the House Judiciary Committee Chairman, the final applications needed for the two thirds requirement were submitted on September 27, 2016. Anyone who believes these two events, given my [recent action](#) to submit the amendments

proposed at the convention to Congress to begin the ratification process, will not be viewed as one by Congress are foolish.

Congress no longer has anywhere to hide. Its own committee has irrefutably proven the states have applied in sufficient number to cause a convention call. The states gathered under state laws, the only laws in effect at this time, held a convention and proposed amendments. The Constitution permits Congress no option but to choose a mode of ratification for the amendments and send them to the states for consideration. Clear evidence proves convention calls have been owed for decades. In short, the states were entirely justified in holding their convention. Whether they should have excluded the American people from the process when they clearly will need that popular support to win ratification will be resolved in the coming months. How Congress will respond to all this remains to be seen.