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## Changing our Constitution: Who's the culprit?

Steve Bakke  August 7, 2023



Our government, institutions, history, national pride, and even the motivations for our founding are constantly debated. No wonder our Constitution is a target for change.

Who are these culprits so hungry for change? What originally started me thinking about this article was a series of complaints by democrats bemoaning significant GOP support for changing the way we govern. In reality, that accusing finger should point in both directions. “Change our government” efforts occupy many in the ambitious corners of both parties.

One serious effort has its roots in the original progressive movement. A century old effort was famously led by President Woodrow Wilson, serving as 28<sup>th</sup> president from 1913 through 2021. He and his followers generally considered the Constitution ready for the trash heap and wanted not just changes but a total reboot.

One decades-old complaint from democrats has to do with the electoral process – a building block of our “representative republic” form of democracy. A democrat led effort is aimed at eliminating the effect of the electoral college without going to all the work of amending the Constitution. The Constitution’s allocation of electors brings with it the possibility that the popular vote may differ from the official result based on the vote by electors.

This movement, the “National Popular Vote Interstate Compact” (NPVIC), seeks to guarantee that the winner of the presidential popular vote automatically wins the presidency, without regard for the results of the vote by electors. In order to join the Compact, states must enact legislation whereby they pledge all their electors to the national popular vote winner.

In order to accomplish this, a majority of the 538 total electors would have to be pledged via the Compact. Thus far, 15 states plus the District of Columbia have legislatively approved the agreement. A total of 196 of the necessary electoral votes are now pledged, accounting for 72% of the required 270. It’s a slow process, but when using the constitutional process, any amendment approved by Congress or a “convention of states” would then require ratification of three-fourths, or 38, of the states. The NPVIC project is much easier.

Democrats are attempting to exploit a perceived “loophole” in our governance rules. Others, mostly republicans, believe the intended result would violate the Constitution.

Many republicans also have their sights set on governance change. The Federalist Papers acknowledged that over time we would learn from our experience and should work to make necessary revisions. Several conservative groups are promoting a “convention of the states,” as provided for in the Constitution, to consider amendments to our existing document. This wouldn’t be a “Constitutional Convention” in which a total “rewrite” would be the goal.

The Constitution provides that two-thirds of the states’ legislatures, or 34, can call a convention for proposing amendments. For those amendments approved by the convention, a three-quarters super-majority of states must ratify an amendment for it to become law. Currently 19 states have approved an application for a convention, still well short of the 34-state requirement. Given the political affiliation of America’s state legislatures, many believe the requirement will eventually be met.

There’s not common agreement on preferred Constitutional amendments. I suggest you refer to Mark Levin’s book, “ The Liberty Amendments,” for examples of amendments that could be proposed. These include: congressional term limits; term limits for the Supreme Court; voting controls such as evidence of citizenship; and selecting senators by vote of state legislatures – as required by the Constitution before Amendment 17.

Other suggestions include updating the General Welfare Clause and the Commerce Clause. There are many more possibilities, some very “scary” for democrats to consider.

We have two culprits working on changes in our Constitution. Two competing movements trying to improve our governance structure. One is faithful to the amendment process set up by our Founders. The other is trying to make an end run around the Constitution.



My arguments for or against these projects I’ll deal with another day. I’ll conclude here with a preliminary observation. Our Constitution’s inherent value remains intact. If change can’t be accomplished using the cautious official process for doing so, it raises serious questions whether the contemplated revision is deserving of the required time and effort.