

The Constitutional Amendment Process

The authority to amend the [Constitution of the United States](#) is derived from [Article V of the Constitution](#). After Congress proposes an amendment, the Archivist of the United States, who heads the National Archives and Records Administration (NARA), is charged with responsibility for administering the ratification process under the provisions of [1 U.S.C. 106b](#). The Archivist has delegated many of the ministerial duties associated with this function to the Director of the Federal Register. Neither Article V of the Constitution nor section 106b describe the ratification process in detail. The Archivist and the Director of the Federal Register follow procedures and customs established by the Secretary of State, who performed these duties until 1950, and the Administrator of General Services, who served in this capacity until NARA assumed responsibility as an independent agency in 1985.

The Constitution provides that an amendment may be proposed either by the Congress with a two-thirds majority vote in both the House of Representatives and the Senate or by a constitutional convention called for by two-thirds of the State legislatures. None of the 27 amendments to the Constitution have been proposed by constitutional convention. The Congress proposes an amendment in the form of a joint resolution. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The original document is forwarded directly to NARA's Office of the Federal Register (OFR) for processing and publication. The OFR adds legislative history notes to the joint resolution and publishes it in slip law format. The OFR also assembles an information package for the States which includes formal "red-line" copies of the joint resolution, copies of the joint resolution in slip law format, and the statutory procedure for ratification under 1 U.S.C. 106b.

The Archivist submits the proposed amendment to the States for their consideration by sending a letter of notification to each Governor along with the informational material prepared by the OFR. The Governors then formally submit the amendment to their State legislatures. In the past, some State legislatures have not waited to receive official notice before taking action on a proposed amendment. When a State ratifies a proposed amendment, it sends the Archivist an original or certified copy of the State action, which is immediately conveyed to the Director of the Federal Register. The OFR examines ratification documents for facial legal sufficiency and an authenticating signature. If the documents are found to be in good order, the Director acknowledges receipt and maintains custody of them. The OFR retains these documents until an amendment is adopted or fails, and then transfers the records to the National Archives for preservation.

A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the States (38 of 50 States). When the OFR verifies that it has received the required number of authenticated ratification documents, it drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice to the Congress and to the Nation that the amendment process has been completed.

In a few instances, States have sent official documents to NARA to record the rejection of an amendment or the rescission of a prior ratification. The Archivist does not make any substantive determinations as to the validity of State ratification actions, but it has been established that the Archivist's certification of the facial legal sufficiency of ratification documents is final and conclusive.

In recent history, the signing of the certification has become a ceremonial function attended by various dignitaries, which may include the President. President Johnson signed the certifications for the 24th and 25th Amendments as a witness, and President Nixon similarly witnessed the certification of the 26th Amendment along with three young scholars. On May 18, 1992, the Archivist performed the duties of the certifying official for the first time to recognize the ratification of the 27th Amendment, and the Director of the Federal Register signed the certification as a witness.

Links to Constitutional Amendment Information in the Treasures of Congress Exhibit

- [The Bill of Rights \(Amendments 1-10 and 27\)](#)
- [The 13th Amendment \(Prohibiting Slavery\)](#)
- [The 17th Amendment \(Direct Election of Senators\)](#)

- [The 19th Amendment \(Granting Women the Right to Vote\)](#)

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