# ND18 - Amendment CP

### Notes

To read vs tax return affs

Don’t read with fism cuz the perm shields the link

### 1NC

#### CP text: The appropriate number of the fifty states will invoke their power under Article V of the Constitution to call a limited constitutional convention for the purpose of mandating presidential candidate tax return disclosure. A sufficient number of the fifty states will ratify the amendment.

#### Solves case – here’s the exact text

**Vile 10/4** John Vile,, 10-4-2018, "It’s time to mandate disclosure of presidential tax returns," Tennessean, <https://www.tennessean.com/story/opinion/2018/10/04/trump-still-must-release-his-tax-returns-how-make-happen/891179002/> OHS-AT

One such option is a constitutional amendment. It might be worded something like the following: “To be eligible to be listed on ballots or to retain their offices, presidential candidates must publicly release a record of their previous year’s tax returns by July 1 of the year prior to their election, and elected presidents and vice-president must file such records by July 1 of each year for which they serve in office.”

The amendment could specify that it would go into effect in 2020 or the next presidential election after which it was ratified.

### \*\*Frontlines\*\*

### XT - Amendment Key

#### Congressional bill fails – decks state powers and only states amending Article II is politically feasible

**Ellis 9/14** Jenna Ellis, 9-14-2018, "3 reasons it's unconstitutional to require presidential candidates to release their tax returns," Washington Examiner, <https://www.washingtonexaminer.com/opinion/3-reasons-its-unconstitutional-to-require-presidential-candidates-to-release-their-tax-returns> OHS-AT

1. Article II of the Constitution provides the criteria for presidential candidates. It would take a constitutional amendment to modify that criteria on a federal level.

Currently, the criteria for a presidential candidate, per the Constitution, is that the candidate must be a natural-born citizen of the United States, a resident for 14 years, and 35 years of age or older. That’s it. Congress can’t add to the constitutional criteria through federal legislation.

If Congress wanted to change the threshold criteria for presidential candidates, it would likely take a constitutional amendment to Article II, which would in turn require ratification by at least three-fourths (currently 38) states. Congress does not have unilateral authority to add to Article II and impose this kind of mandated criteria on presidential candidates.

The United States Code governing presidential elections is procedural, not substantive, in furtherance of the states’ rights for the electoral process. It is similar to Congress’ role in an Article V convention of the states—there are absolutely no powers for Congress to control or regulate the substance of the convention, but merely procedurally Congress must call the time and place of the convention.

If the states wanted to instruct their Electoral College delegates, that’s a very different constitutional question than for Congress to require it, but is still constitutionally dubious. Powell v. McCormick and U.S. Term Limits v. Thornton make it clear that neither Congress nor the states can add to qualifications for members of Congress. This same rationale should apply to presidents.

2. Congress has no constitutional authority in presidential elections. Congressional meddling undermines constitutional federalism.

Congress has absolutely no constitutional power in presidential elections. The states control the Electoral College and each state has control over its own delegates, in compliance with Article II and the Twelfth and Fourteenth Amendments. In fact, the only constitutional limitation on service as a delegate in the Electoral College is that any current federal office holder (which includes Congress) may not be an elector. The Founders drew clear boundaries preventing federal interference in presidential elections.

Federal legislation requiring candidates to disclose tax returns is likely unconstitutional and definitely undermines federalism and the separation of powers between the federal and state governments. The outcome of this proposal is infringement upon states’ powers by congressional control of election criteria.

### AT: Runaway

#### A limited Constitutional convention solves.

**Eidsmoe 92** (John – Senior Counsel and Resident Scholar at the Foundation for Moral Law, “New Constitutional Convention--Critical Look at Questions Answered, and Not Answered, by Article Five of the United States Constitution,” 3 U.S. A.F. Acad. J. Legal Stud. 35, <http://heinonline.org/HOL/Page?handle=hein.journals/usafa3&div=6&g_sent=1&collection=journals>)

Concon proponents answer that these fears are totally unfounded. States may limit the convention to a single issue by calling for a convention for that limited purpose. Likewise, Congress, in calling the convention, may in its statutory call limit the convention's authority and purposes. The late Senator Everett Dirksen (R-Ill) believed a convention could be limited: I apprehend that when the applications are for a stated purpose or amendment... then in effect the state legislatures, which alone possess the initiative in convening a convention, have by their own action taken the first step toward limiting the scope of the convention. It would then remain for the Congress to implement this attempt to limit the convention by making appropriate provision in its call.' The late Senator Sam Ervin (D-NC), regarded as one of the leading constitutional experts ever to serve in the U.S. Senate, also believed the states and Congress can limit the scope of a convention." The American Bar Association conducted a detailed study of the issue and reached the same conclusion in 1973.

### AT: Perm vs Congress

#### The plan is statutory law, the CP is constitutional law --- they sever normal means

**Difference Between 13** (“Difference between Statutory Law and Constitutional Law,” <http://www.differencebetween.info/difference-between-statutory-law-and-constitutional-law>)

Laws are an important part of society; they ensure peace and tranquility throughout the land. Imagine a world without laws, where everyone would be allowed to do as they wish. It would be chaos! Everyone would be free to steal, murder, do business as they please, etc. There would be no one to make sure everyone is treated fairly, business is being lawfully, people are being treated properly, etc. Hence, laws are very important to ensure that everyone is treated fairly and right. No one under the law is given extra power and everyone is treated the same. There are various different types of laws that are used to monitor different parts of the society and each law created monitors that specific part only. For people that are not well versed with the law and its studies can often become confused (with the language adding to the confusion). Statutory Law and Constitutional Law are two different types of law that are used to govern different aspects of the society. Statutory Laws are laws that have been written down and codified by the legislative branch of a country. The law has been set down by a legislature or legislator (if it is a monarchy) and codified by the government. These laws are also known as written law or session law. Statutory laws are often subordinate to the higher constitutional laws. The laws are written on a bill and must be passed by the legislative body of the government. Statutory laws originate from municipalities, state legislature or national legislature. The term ‘codified’ states that the law is organized by the subject matter. However, not all statutory laws are considered as ‘codified’. The statues are often referred to as code. Codifying a law can also refer to taking a common law and putting it in statute or code form. Statues are prone to being over written or expiring, depending on the law that was passed. Many countries depend on a mixed law system to provide the proper justice. This is because statutory laws are often written in general language and may not govern every situation that may arise. In cases like these, the courts must interpret and determine the proper meaning of the statute that is most relevant to the case. Both statutory laws and common laws can be disputed and appealed in higher courts. Constitutional Law is the body of law that defines the relationship between different entities within a nation, most commonly the judiciary, the executive and the legislature bodies. Not all nations have a codified constitution, though all of them have some sort of document that states certain laws when the nation was established. These rules could state the basic human rights of the man and women of that state, including rights to own property, freedom of speech, etc. The main purpose of the constitutional law is to govern the law making bodies in the nation. It gives them set boundaries of the laws they cannot violate. For example, the law makers cannot violate the public’s rights to do certain things such as freedom of speech, right to petition, freedom of assembly, etc. The constitutional law of a country can be changed if the government falls or changes. Additions can also be made to the constitution in form of amendments.

### AT: Too Slow

#### 1] Fiat solves!

#### 2] No hurry – election isn’t tomorrow

#### 3] An amendment that specifies a precise rule is immediate in effect.

**Strauss 1** (David A. – Harry N. Wyatt Professor of Law at the University of Chicago, “The Irrelevance of Constitutional Amendments,” 114 Harv. L. Rev. 1457, <http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2986&context=journal_articles>)

Finally, for an amendment to matter, it must be unusually difficult to evade. An amendment that specifies a precise rule, for example, is more likely to have an effect than one that establishes only a relatively vague norm. If its text is at all imprecise, an amendment that is adopted at the high-water mark of public sentiment will be prone to narrow construction or outright evasion once public sentiment recedes, as the Fourteenth and Fifteenth Amendments were.

#### 4] Amendment process is not inherently slow

Jackson ’01 (Jesse L. Jackson, Jr., 2001, U.S. Representative, “A More Perfect Union: Advancing New American Rights”)

Some will say that amending the Constitution once, not to mention eight times, takes too long, requires too much energy, and costs too much money – that it’s an inefficient stewardship of time and resources. The answer to the first argument is that the Constitution has been amended twenty-seven times, including seventeen times since the original Bill of Rights was passed. (The Bill of Rights itself required 811 days – from September 25, 1789, to December 15, 1791 – for ratification.) Following the initial, usually lengthy struggle to get an amendment through two-thirds of the House and Senate, there is no time limit for ratifying it – that is, no seven-year limitation on ratifying amendments, as many people believe. This schedule was arbitrarily placed on the Equal Rights Amendment (and later extended to ten years) and the D.C. Statehood Amendment. Once a state legislature votes for an amendment, that affirmation remains in place, unless a later body reverses it. How long it takes for my amendments to be passed by House and Senate, and ratified by three-quarters of the state legislatures, will be determined by a combination of political leadership and the will of the American people. If Americans have a strong desire for these rights – have a political fire burning in their bellies – such amendments can be shuttled through the House and Senate and ratified relatively quickly after a legitimate national debate on their substance and implications.