Application for Congress to call an Article V Convention: A Pandora's Box

1. Claims that convention has no power and can be limited are FALSE as there is no historical or legal or plain language of the constitution to support this position
    (a) There has not been a convention called to address our federal Constitution since 1787.
    (b) The examples (e.g. 1860/61) that are provided by Convention of States were **NOT** Art V conventions.
    (c) The idea that the delegates could be limited is specifically historically and legally contradicted by the example of 1787 wherein most of the delegations had limited instructions to amend the Articles of Confederation but instead set them aside and created an entirely new Constitution with its own new ratification system. Examples:

    New York: Feb 26, 1787: "on the second Monday in May next, at Philadelphia, for the sole and express purpose of revising the Articles of Confederation and reporting to Congress"

    Massachusetts: March 7, 1787: "for the sole & express purpose of revising the Articles of Confederation"

2. Claims that ratification will prevent any real damage are FALSE
    (a) The 1787 convention was called pursuant to the Articles of Confederation.
    (b) Under Article 13, any amendments had to be ratified by the Congress and all of the States.
    (c) However, the new Constitution drafted at this "amendments" convention provided that it would be ratified when only 9 States approved it.
    (d) Rhode Island never sent delegates and did not ratify until well after George Washington was elected an inaugurated as President.
    (e) It therefore follows that if a Convention is called, even if limited to determination of specific enumerated "amendments", the Constitution can be changed and those changes can include changing the ratification process.
    (f) As clearly described in the book "The Creation of the American Republic 1776-1787" by award-winning, world-class historian Gordon S. Wood, there is a Separation of Powers that exists between Convention (that creates the system of government in conformity with the ideals of Declaration of Independence) and Legislature (which is then then authorized to pass laws for the good of the people). Given the existence of a separation of powers, a Legislature may not limit a Convention, just as a convention cannot on it own pass laws. The wisdom of this was soon on display in France in 1789.

3. Supreme Court Justices warn against a Constitutional Convention
    (a) Chief Justice John Jay in an essay in April 1788
    (b) Justice Anton Scalia on April 17, 2014 (Video)
    (c) Justice Arthur Goldberg in a 1986 editorial in the Miami Herald
    (d) Chief Justice Warren Burger in a June 1988 Letter to Phillis Schlafly

4. Congressional Research and Legal Scholars: Constitutional Convention cannot be limited or controlled by the states. Once the States call one, it's out of their hands
    (a) Law Professors from Harvard, Yale, Stanford, Notre Dame and many other top law schools all agree that the Claims of a limited Constitutional Convention are FALSE. An in-depth Law Review Article by a prominent Federal Judge reached the same conclusion.
    (b) The Congressional Research Division concludes that CONGRESS and NOT the States would choose the delegates for the Convention.
    (c) "False" and "reckless in the extreme" – A statement by two of the nation's most experienced constitutional litigators (William Olson and Herb Titus) describing the claims of Convention of States claims of a limited Convention

5. Merely changing language would at best change nothing. More likely it will fundamentally ruin the existing Constitution
    (a) If Congress does not follow the existing Constitution, why would we have any faith that they would follow one with new language?
    (b) A "balanced budget" clause would change the constitutional standard for spending *from* whether an object is an enumerated power and *to* Congress and therefore Congress can spend on whatever it wants so long as it has the resources to pay for it. This creates completely new constitutional authority to spend on whatever Congress or the President want to spend money on, transforming our Constitution from one of enumerated powers only to one of general unlimited powers where the federal gov't has constitutional authority over whatever they decide to spend money on.
    (c) The bill of rights was ratified in 1791. The Alien and Sedition acts were passed in 1798. The idea that congress would abide by the new changes for any length of time is historically inaccurate.
    (d) Radical special interest groups have spent hundreds of millions of dollars preparing for a Constitutional Convention and their plans would fundamentally alter the fabric of our nation. See for example: The Emerging Constitution by Rexford G. Tugwell

Conclusion – Yes there is a problem. But the solution at the State House level is nullification, not a Constitutional Convention. The remedy to federal overreach is a scalpel, not a meat clever!

A. Nullification was discussed at length by the Constitutional framers, see for example Federalist No.'s 28, 33 & 46.
B. The first nullification bills were drafted by Thomas Jefferson and James Madison: "The States, in their sovereign capacity, are the parties to the constitutional compact; and are thus the final authority on whether the federal government has violated the Constitution."
C. Nullification was used to defeat slavery, not to defend slavery. The nullification crisis of 1832 in South Carolina was in response to federal tariffs, not slavery. But tariffs are specifically authorized to Congress in Art. 1, Sec 8, Cl. 1. BUT, following the Fugitive Slave Act of 1850, many states nullified the law to protect the rights of people of color in their states.
D. Article VI, not Article V is the solution.