

Budget hawks hatch plan to force constitutional convention

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WASHINGTON (AP) — GOP activists want to trigger a constitutional convention with the goal of enacting a federal balanced budget amendment, potentially requiring massive cuts to government spending.

Critics warned a convention could decide to take on topics beyond a balanced budget and propose other big constitutional changes, though 38 states still would have to ratify any proposed amendments.

Former Wisconsin Gov. Scott Walker outlined a legal strategy to a gathering of state lawmakers and corporate lobbyists earlier this month designed to force a convention to consider the amendment even though only 28 states have still-pending resolutions calling for one, well short of the 34 required.

The event was part of the annual meeting of the American Legislative Exchange Council, a corporate-backed group that facilitates conservative and pro-business legislation, which was held online due to the risk posed by COVID-19.

In a [video](#) of the July 21 session led by Walker and posted by ALEC, Walker lamented the ballooning federal debt of more than \$26.5 trillion, conceding the figure has continued to grow under both Democratic and Republican administrations.

“It’s just more and more spending,” said Walker, who unsuccessfully sought the GOP nomination for president in 2016. “We’ve got to do something about that. That’s why we need a balanced budget amendment. We need it now more than ever, and we need it before it’s too late.”

It’s unclear how many state legislators listened to Walker’s presentation or support the idea. But Ohio Senate Majority Leader Matt Huffman, a Republican who participated in the discussion, said he would work to build support in his state for a lawsuit seeking to convene a constitutional convention.

Walker is the latest in a long line of Republicans pressing for a constitutional amendment requiring the federal budget be in balance. In 2018, the GOP-controlled House of Representatives [voted](#) 233 to 184 in favor of it, but failed to reach the two-thirds margin required to send an amendment for potential ratification by three-quarters of the states.

“What we see is that politicians in Washington are incapable, regardless of party, of ultimately getting the job done when it comes to a balanced budget amendment,” Walker said. “So, thankfully, our founders presented another way to do this, and that is through the states.”

The new plan, presented during the ALEC workshop with a [PowerPoint presentation](#) from conservative activist David Biddulph, is to take the 28 state resolutions seeking a balanced budget amendment and combine them with six state resolutions passed over the last two centuries generally seeking a constitutional convention. The oldest of those was a resolution passed by New York in 1789, according to a [2018 article](#) on the conservative Federalist Society’s website by constitutional scholar Robert G. Natelson.

Biddulph proposed recruiting state attorneys general to file a legal order demanding that Congress recognize the 34 state resolutions and convene a constitutional convention. If Congress refuses, the AGs would sue in federal court.

Walker declined an interview request from AP, referring questions to Biddulph.

Biddulph, co-founder of a [Florida-based group](#) called Let Us Vote for a Balanced Budget Amendment, said Wednesday the lawsuit to trigger a constitutional convention could be the best shot of advancing his signature issue.

“We think that the shortest path to actually getting a date for an Article V convention is through the Supreme Court,” he said. “That is definitely not through Congress.”

David Super, a Georgetown University Law professor who has [studied efforts](#) to convene a constitutional convention, said it would overturn decades of legal precedents on the separation of powers for the federal judiciary to order the Congress to convene a convention. But he said it was not outside the realm of possibility, given the pace at which President Donald Trump and Senate Majority Leader Mitch McConnell have been putting conservative judges on the federal bench.

“I think we’re going to be seeing more and more lawsuits of this kind that in normal times would be laughed out of court and perhaps the lawyers fined for bringing them,” Super said in an interview. “But given who is now sitting, there’s a fair chance that they will win, at least at the trial stage and very possibly at the court of appeals.”

Every U.S. state but Vermont has a form of balanced budget requirement, but state governments typically rely on federal financial assistance during hard times, such as the current fiscal crisis caused by COVID-19. If enacted, critics contend that a federal balanced budget amendment would necessitate draconian spending cuts, steep tax increases, or both – potentially causing a prolonged national recession.

Super said Walker, in his presentation, ignored the role the \$2 trillion tax cut passed by a GOP-controlled Congress at the end of 2017 played in deepening federal deficits.

He also warned that convening a constitutional convention could have unintended consequences. He pointed to the 1787 convention that was called to amend the Articles of Confederation but resulted in a whole new national constitution.

“Once you have the convention, it is subject to nobody’s control,” Super said. “It makes its own agenda. It makes its own voting rules that decides how long it lasts and how far it goes.”

Arn Pearson, executive director of the progressive watchdog group Center for Media and Democracy, also warned that a so-called runaway convention could be called to consider one subject but then decide to make other big constitutional changes.

Republicans control 60 percent of the state legislative chambers, potentially giving them a numerical advantage in selecting who would be delegates.

“If their ploy succeeds, the field will be thrown wide open for constitutional rewrites,” Pearson said. “Right-wing mega donors will spend millions to advance a sweeping agenda to limit federal powers. It’s not going to be an exercise in popular democracy.”

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