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**Taking aim at U.S. Constitution; Conservative groups see **convention** of states as a way to sidestep Congress**

By MICHAEL WINES

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Taking advantage of almost a decade of political victories in state legislatures across the country, conservative advocacy groups are quietly marshaling support for an event unprecedented in the nation's history: a **convention** of the 50 states, summoned to consider amending the Constitution.

The groups are an amalgam of free-market, low-tax and small-government proponents, often funded by corporations and deeply conservative supporters like the billionaire Koch brothers and Donors Trust, whose contributors are mostly anonymous. They want an amendment to require a balanced federal budget, an idea many conservatives have embraced, many economists disdain and Congress has failed to endorse for decades.

But as they near their goal, critics and some skeptical **constitutional** scholars are warning that holding an amendment-writing meeting with no historical parallel and no written rules could open a Pandora's box of **constitutional** mischief.

The process, which is playing out largely beyond public notice, rests on a clause in Article 5 of the Constitution that allows the states to sidestep Congress and draft their own **constitutional** amendments whenever two-thirds of their legislatures demand it.

That will by no means be easy. Even if the two-thirds threshold were reached, a **convention** would probably face a court battle over whether the legislatures' calls for a **convention** were sufficiently similar. And as with any amendment that Congress proposes, state-written amendments would need approval by three-quarters of the states — either by their legislatures or by state conventions — to take effect.

But as Republicans have surged to control of state legislatures and moved sharply rightward during the Obama years, what once was a pet project of the party's fringe has become a proposal with a plausible chance of success. Some of the former Republican presidential candidates, including comparative moderates like John Kasich and Jeb Bush, have endorsed a state amendment **convention**.

So far, 28 states have adopted resolutions calling for a **convention** on a balanced-budget amendment, including 10 in the past three years, and two, Oklahoma and West Virginia, this spring. That is just six states short of the 34 needed to invoke the Article 5 clause.

"I think the prospect is very good in 2017," said Gary Banz, a Republican who is majority whip in the Oklahoma House of Representatives. "You can look at any number of states that are not on board yet, and they're controlled by very conservative elements."

Including nominally nonpartisan Nebraska, Republicans now control 31 state assemblies — more than double the number in 2010. Of the 11 states advocacy groups have targeted for pro-**convention** lobbying next year, Republicans control both houses of the Legislature in seven.

Representative Banz is among those leading the charge. In addition to his statehouse job, he is the national secretary of the American Legislative Exchange Council, known as ALEC, a nonprofit financed by corporate and private donors, including the Kochs, that is at the center of the **convention** effort.

But opponents say an amendment, not the deficit, is the threat. A government that could not run deficits, they argue, would not be able to stimulate the economy during recessions, when job-creating spending is most needed. And it would not be able to elude budget ceilings for benefits like Social Security, or for job-creating projects like highways that are financed with debt.

In truth, they say, debt is a fact of life for both states and ordinary households — in bond issues that finance revenue generators like **convention** centers and bridges, and for ordinary necessities like cars, kitchen remodelings and homes. Banning deficit spending, they say, would bring the economy to a halt.

But the basic argument for federal frugality has broad appeal. Polls generally indicate strong support for a balanced-budget amendment, and advocates persuaded 32 state legislatures to back an amendment **convention** during the Reagan administration.

Yet debate over an amendment's merits has taken a back seat to a more fundamental question: whether delegates to a **convention** could be trusted not to tinker with other parts of the Constitution.

Article 5 places no limits on a **convention**'s power. Some experts note that the Constitution itself arose when a **convention** called to amend its predecessor, the Articles of Confederation — tore the document up and started from scratch. That **convention** even scrapped the Articles' terms of ratification — unanimous approval by the states — and substituted a lower barrier, three-fourths of states. (Some pro-amendment conservatives argue that the delegates to Philadelphia did not go rogue, but always planned to rewrite the Articles.)

So what rules would an amendments **convention** follow? “The answer to almost every question you could ask is ‘We don’t know,’” said Michael J. Klarman, a **constitutional** law expert at Harvard whose book on that **convention**, “The Framers’ Coup: The Making of the United States Constitution,” will be published in October. “I think a **convention** can do anything they want — re-establish slavery, establish a national church. I just don’t think there’s any limit.”

Michael J. Gerhardt, a University of North Carolina law professor and scholar in residence at the National Constitution Center in Philadelphia, said Article 5's reticence gives states leeway to improvise.

“Once you have a **convention**, then in some respects it becomes a free-for-all,” he said. “All bets are off.”

History suggests at least one Founding Father had similar qualms. During the drafting of the Constitution, James Madison did not oppose the Article 5 clause, but he worried “that difficulties might arise as to the form, the quorum.”

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