

Resolution Selecting and Instructing Commissioners to a Convention for Proposing a Balanced Budget Amendment to the U.S. Constitution

The U.S. Constitution authorizes two-thirds of the states to require Congress to call what the Constitution refers to as a “convention for proposing amendments.” This is a gathering of representatives of the state legislatures, and frequently is referred to as “convention of the states.” The prospects are now excellent that Congress may be required to call a convention of states to propose a balanced budget amendment in the near future—likely before the end of 2018.

The universal procedure at conventions of states has been for each state to cast one vote. Therefore, each state legislature will have to select a delegation of agents to represent its interests and viewpoints and cast its vote. The traditional name for these agents is “commissioners.”

We recommend that each legislature adopt as soon as possible its resolutions appointing and instructing commissioners. The composition of 44 of the 50 state legislatures has now been fixed for the next two years, and all state legislatures will be in session at some time during 2017. There will be plenty to do in the hurried time immediately before a convention without having to choose commissioners and draft instructions from scratch. Even if the convention is not called before the end of 2018 and these resolutions become moot, they will survive as models for when the convention is called.

Because commissioners are agents of the legislature, each legislature has broad discretion over their selection and instructions. For example, the legislature may:

- Decide how the delegation’s vote is determined. The usual method is by a vote of a majority of the delegation present.
- Decide how many commissioners will form its delegation. We recommend an odd number of commissioners to avoid deadlock within the delegation. The model below suggests seven per state which will enable broad, bi-partisan participation.
- Require each commissioner to take an oath of office.
- Require each commissioner to follow specific instructions from the legislature issued prior to and during the convention.
- Create a mechanism for recalling and/or disciplining commissioners for violation of his or her oath or instructions.
- Authorize the delegation to represent the state legislature at formal and informal planning sessions or other meetings before the convention and to correspond with other delegations regarding the convention.
- Decide whether there will be alternate commissioners, and whether each alternate is paired to a commissioner or whether alternates form a pool from which the delegation selects a needed replacement. The model provides for paired alternates.
- Decide how commissioners are chosen.

