

Contentious Imbalance

By Zachary I. Gold

The past few years have seen a litany of contentious bills in Congress. The most recent one is H.J. Res 2, a balanced budget amendment to the Constitution that House Republicans introduced in January 2011. The full House voted on it for the first time on November 17th, and, on a nearly party-line vote, the amendment fell just twenty-three votes short of the two hundred eighty-four required to pass.

The proposed amendment would require the federal government's spending to be equal to or less than its revenues. Those revenues would include all receipts of the federal government except those from borrowing, and the government would not be able to increase the debt limit without the approval of three-fifths of the House. In effect, the only time that the federal government could spend more than it takes in would be with the approval of three-fifths of the House or by declaration of war.

Republicans have long proposed a balanced budget amendment, coming close to passing the amendment in Congress in both 1995 and 1997. The stated goal of the amendment is to reverse what many consider a fiscal crisis: the federal government spending more money than it takes in, which according to the amendment's proponents, leads to higher taxes, more borrowing, and eventually to a stagnant economy. Proponents of the balanced budget amendment argue that we need a Constitutional amendment to fix the problem. Some on the right even argue that the current proposal is not strong enough. They think that, in addition to the restrictions in H.J. Res. 2, the amendment should cap federal spending as a percentage of Gross Domestic Product (GDP), require a supermajority of Congress to raise taxes, and preclude the courts from enforcing the amendment (a measure designed to limit "judicial activism" in the production of a budget).

Many on the left (and some on the right) oppose the idea. Only twenty-five House Democrats voted for H.J. Res 2, and one hundred sixty-five voted against it. Opponents of the amendment argue that requiring a supermajority in Congress to raise taxes makes tax increases practically impossible. This is especially true because the amendment requires three-fifths of the House to vote in favor of a tax increase for it to occur. A vote could fail not because members vote against it, but simply because members might not show up to vote. The proposed cap on federal spending as a percentage of GDP worries some because Congress has not defined GDP or laid out a manner to calculate it, opening the possibility that this number could be toyed with to achieve political and budgetary ends.

There are also worries that the judicial branch would become involved in the process. In several states where the state's constitution or statutes mandate balanced budgets, judges have forced legislatures to balance the budget, mandating tax increases or limiting expenditures. Additionally, many on the left believe it is the government's responsibility to counter economic downturns with changes in spending or taxing, and a balanced budget amendment would severely limit the government's ability to do that. Lastly, as the Congressional Research Service reported, the amendment proposals are unclear because they do not define the role of the President or the Executive agencies that spend so many of our federal tax dollars. The proposals also do not dictate how to treat off-budget items like the Postal Service and Social Security.

Should the House and Senate ever ratify the amendment, the chances of three-fourths of the states ratifying the amendment are slim. According to the Tax Foundation, thirty-two states received more money from the federal government than they paid in federal taxes in 2005, the most recent year for which data is provided. Presumably, those states would vote against a balanced budget amendment because they benefit under the current system, where the federal government can spend whatever it wants. As thirty-eight states need to ratify an amendment to make it part of the Constitution, it would take only six more states to vote against ratification on any grounds to defeat the amendment.

Balanced budget amendments have been proposed many times in recent years (the Senate Judiciary Committee has held hearings in the 97th, 98th, 99th, 101st, 102nd, 103rd, 104th, 105th, and now the 112th Congresses). All have failed to achieve enough votes in Congress to move on to the state ratification process. Considering that failure, the hurdle of state ratification, and the scarcity of ratified Constitutional amendments, it is incredibly unlikely that a balanced budget amendment would be ratified anytime soon, if ever.

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