



David Highfield, balanced budget\1.13, 05 July 2013, flickr,

Taking Back the Constitution - Part 12 – Balancing the budget

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What is a balanced budget amendment?

In its simplest form a balanced budget amendment (BBA) is an attempt in Constitutional language to keep the federal government from spending more than it receives.

Thomas Jefferson wrote in 1798, “I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government: I mean an additional article taking from the Federal Government the power of borrowing”ⁱ In spite of Jefferson’s wishes no BBA was introduced into Congress until 1936. That BBA proposed a per capita limit on federal debt. Note that while it is customary to call for a balanced budget, most actual proposals do not address budgets – only debt. We will note the reasons below.

A BBA normally has provisions for deficit spending in an emergency. It may have other provisions attached, such as limits on spending more than a certain percentage of gross domestic product, but these are secondary, and will not be considered in this column.

Why create a balanced budget amendment?

The significant growth in federal debt and very frequent annual deficits are ultimately quite dangerous. They threaten the financial stability of the United States and significantly erode the

value of the dollar.ⁱⁱ Many people, particularly those on fixed incomes, are severely impacted and frequently driven into poverty. Deficits add to the federal debt. This poses a burden for future generations who will be obligated to pay at least the interest.

A large number of people are concerned, and one of the means by which they hope to rein in the deficits is a balanced budget amendment to the Constitution.

Limiting spending has a lot of support in general, but when specific programs are to be cut, that support tends to evaporate. All elected office holders know that:

- 1) More government spending gets them more votes, and
- 2) More taxes get them fewer votes.

These pressures are amplified many times by constituents that make strong arguments for this program and that program, but seldom argue to shut down a specific program. It is obvious why spending gets out of control.

Some big spending representatives might very much appreciate an effective spending restraint that forced them to say no to their demanding constituents. Low spending legislators are always pushed very hard to accept higher spending by folks who say if they don't spend it, the money will just go to the other states (areas or districts). The result is that deficit spending has so much more political power than fiscal probity. Small wonder that Congress seldom reaches a point where federal expenditures are less than income.

What efforts have been made?

In spite of the tremendous pressures for more spending, many well-intentioned efforts have been made to move a BBA through Congress as a means of forcing some discipline on Congress.

In 1917 three senators introduced a two BBAs. Orin Hatch's was his 28th since 1979. His latest has 49 cosponsors and will likely fail as have the previous attempts.ⁱⁱⁱ These long list of cosponsors permit members to posture as fiscal conservatives, but in the end the 67 votes needed to pass it out of the Senate are not forthcoming. In 1995 a BBA obtained the required 2/3 in the House and fell just two votes short of 2/3 in the Senate.

All were constructed with the best of intentions, but they fail to provide a workable and enforceable mechanism to keep expenditures below revenues over the long term. Had they been carried forward, the sponsors would have been disappointed as the results fell far short of expectations.^{iv} Crafting an effective BBA is just a lot harder than most people realize.

Creating a family budget is not easy

If you look at you family budget, you will find years with deficits when:

- 1) you're in college,
- 2) your wife stays home to take care of the kids,
- 3) you are between jobs,
- 4) your kids are in college, and

5) you are retired.

You are likely to have a family budget surplus:

- 1) Before you have kids, and
- 2) After your kids are on their own.

Budgets usually do not balance in tune with the calendar. In fact, a family is successful if it runs a budget surplus over each generation's lifetime.

This points out one challenge for a BBA. It must account for programs that are funded in one time period and spent in another. There are many more challenges.

Crafting a federal balanced budget amendment is even more difficult

The government is actually funded by a series of authorization bills and appropriations. The budget is just the planning tool used to coordinate the committees writing the many appropriation bills. Therefore requiring a balanced budget is nice, from an advisory view, and might be enforced on the appropriations, but also can easily be ignored when the spending pressure gets intense. Most BBAs contain a provision to override limits in an emergency. This normally requires a 3/5ths or 2/3rds vote. With multiple appropriation bills necessary, which one(s) need the supermajority vote?

It can also be very dangerous to the enumerated duties of the federal government as specified in Article 1, Section 8.^v Unless the BBA specifies that the enumerated duties are still valid (in spite of the government frequently ignoring this constitutional provision) the BBA will override the enumerated duties and they will no longer provide any constitutional limit on what the federal government may fund.^{vi}

The federal government faces demands for many expenditures that are not in the same years in which the corresponding revenues are obtained. To handle the treatment of revenues into, and expenditures from those program funds, it may be necessary to omit them from the calculation of the budget balance. Be aware that since social security is the biggest federal program, omitting it will very significantly reduce the area covered by the BBA.

For example, workers pay into social security for many years before they start to draw retirement. Those funds are generally used to pay current retirees, and if there is some left it is loaned to the rest of the federal government in return for an IOU. To reasonably account for this flow of payroll taxes vs social security payments, both would have to be omitted from any balanced budget calculation. The money used to buy federal bonds which ends up as an IOU can not be counted as revenue to balance some expenditure. Return of the money for which the IOU was given to the Social Security system would not count as an expenditure, although the interest on it would. When the social security system no longer has funds to pay its benefits, and if the general government chooses to subsidize those benefits, such subsidies would be a federal expenditure.

Another example would be federal flood insurance. This program charges too little to make money and each time a major flood occurs it gets hit with a large payout. In this case the

premiums people pay would not be considered federal revenue and to the extent that those premiums pay for the catastrophe would not be considered federal expenditures. Any extra payments would however be included in federal expenditures.

A much more difficult issue to treat is the stimulus demanded by the many Keynesian types who still infest academia and the government. According to their theory, the government should run a budget surplus during the good years and a deficit during recessions. Unfortunately, the years of surplus seldom seem to arrive. I may think their theory to be hogwash, but this type of expenditure crosses multiple years and makes hash out of any constitutional provision that tried to balance a budget in any particular year or even over any period than is politically meaningful.

In the amendment below, I have taken the suggestion of J. Huston McCulloch and focused on the debt limit rather than on the annual budget.^{vii} It has the great good sense of washing out the inter-year transfers unless they cause the total debt to increase. It also focuses on a more easily measured number—debt, rather than a bunch of individual appropriations.

What can we do about it?

A BBA with appropriate enforcement may help prevent the runaway debt that our federal government has seen in recent years.

Using the debt limit as the balanced budget test would permit legislators (if they can summon the fortitude) to let revenues pay down the debt in good years, but then spend back up to the limit in bad years. A frugal Congress can reduce the debt limit (but no lower than the actual current debt) if it deems it necessary to restrain a future more spend-thrift Congress.

In emergencies, a 2/3 vote of each house of Congress would permit an increase in the debt limit. But to insure this provision is used only in true emergencies, legislators would incur a significant deterrent when they increased the limit.

By permitting the President a proportional rescission authority^{viii} when the debt limit is about to be violated, some enforcement will be available. By insisting that it be applied across the monies in all appropriation bills (except debt service) in proportion to the monies appropriated, the President's ability to use his rescission authority for drastic program changes is limited.

The Federal Reserve has in recent years used its emergency powers to create new reserve deposits convertible to legal currency. The debt definition below includes these funds to prevent the Fed blowing a hole through any limit.

After incorporating these improvements, your columnist still has doubts about the effectiveness of any BBA. If you have constructive suggestions please email them to: don.anderson@softwarenorth.com.

Implementing a balanced budget:

Amendment Number _____

Section 1. The outstanding debt of the United States shall not be increased above its level on the date of ratification of this amendment, unless two-thirds of the whole number of each House with a roll call vote shall provide for an increase in the authorized debt level. Should such an emergency increase be passed all representatives and senators who have served more than one term shall become ineligible for further terms in either the House or Senate.

Section 2. No provision of this amendment shall impair the limitations on the valid duties of the federal government enumerated in Article 1, Section 8 of this Constitution.

Section 3. Should the President determine that the appropriated expenditures will cause the debt limit to be exceeded, he shall announce the same, and in 30 days announce an adjusted set of appropriations that will not cause the debt limit to be exceeded. He shall first proportionately reduce the appropriations passed by Congress for the current fiscal year that fall outside the enumerated valid duties mentioned in section 2 (above). If that reduction is insufficient he shall reduce every remaining appropriation, except interest on the debt, by a percentage sufficient to keep the debt below the limit. Each appropriation bill, except for the payment of interest on the debt, shall be reduced by the same percentage.

Section 3. Congress may at any time reduce the authorized limit on the outstanding debt to a level no lower than the current outstanding debt by a majority vote of both Houses of Congress with roll call votes.

SECTION 4. Outstanding debt shall include all obligations backed by the full faith and credit of the United States, as well as all legal tender obligations and monetary instruments issued by the United States and its agencies. It does not include contingent claims of the United States and its agencies, and excludes obligations backed by the full faith and credit of the United States held as backing for legal tender obligations and monetary instruments issued by the United States and its agencies.

ⁱ Thomas Jefferson, Letter to John Taylor of Caroline, November 26, 1798 in the Writings of Thomas Jefferson, Memorial Edition, Vol.10 ed. Andrew A Libscomb and Ellery Bergh (Washington, D.C.; Thomas Jefferson Memorial Association of the United States, 1903-1904).

ⁱⁱ In the past 100 years the dollar has lost over 96% of its value by even the most optimistic estimates. In just the last 40 years the dollar has lost between 80% (Bureau of Labor Statistics) and 95.5% (Shadow Government Statistics) of its value. Even in the last 10 years the dollar has lost between 20.8% (BLS) and 60.4% (SGS) of its value.

ⁱⁱⁱ S.J.Res.24–115th Congress (2017-2018) was introduced in the Senate on 2/27/2017. Its summary claims: “This joint resolution proposes a constitutional amendment prohibiting total outlays for a fiscal year from exceeding total receipts for that fiscal year unless Congress authorizes the excess by a two-thirds vote of each chamber. The prohibition excludes outlays for repayment of debt principal and receipts derived from borrowing. The amendment prohibits total outlays for any fiscal year from exceeding 18% of the U.S. gross domestic product, unless two-thirds of each chamber of Congress provides for a specific increase above this amount. The amendment requires a two-thirds vote of each chamber of Congress to impose a new tax, increase the statutory rate of any tax, or increase the aggregate amount of revenue. It requires a three-fifths vote of each chamber to increase the limit on the debt of the United States. The President must submit an annual budget in which total outlays do not exceed total receipts and 18% of the U.S. gross domestic product. The amendment prohibits a court from ordering a revenue increase to enforce the requirements. Congress may waive specified requirements when a declaration of war against a nation-state is in effect or the United States is engaged in a military conflict which causes an imminent and serious military threat to national security.”

^{iv} Many economists warn that the BBAs as usually written are not at all compatible with actual federal policy, and could do significant economic damage. The BBA in this column bypasses some of these objections. To review a larger list of objections to BBAs see the paper by Robert Greenstein and Richard Kogan, *A Constitutional Balanced Budget Amendment Threatens great Economic Damage*, Center on Budget and Policy Priorities, 27 July 2011.

^v The enumerated duties of the federal government are (from Article 1, Section 8):

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

^{vi} I am indebted to Publis Huldah for pointing this out in her 12 Jun 2017 column “Balanced Budget Amendment: The Solution? Or Deathblow?”, <http://constitution.com/balanced-budget-amendment-solution-deathblow/>

^{vii} McCulloch, J. Huston; *Balanced Budget Amendments, Good and Bad*, blog.independent.org, 25 August 2013. His paper contains one of the very best discussions of a possible BBA and has provided the basis for the amendment shown in this column.

^{viii} All Presidents up through Richard Nixon could exercise the power of not spending appropriated funds. *The Congressional Budget and Impoundment Control Act of 1974* largely removed that power. The proposed amendment restores a portion of that power under very limited circumstances.