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THE BALANCED BUDGET AMENDMENT
(S.J. RES. 58, H.J. RES. 350)

INTRODUCTION

Fueled by a grass-roots movement for fiscal restraint, a balanced budget and tax limitation amendment to the U.S. Constitution is gathering momentum in both Congress and the state legislatures. Since 1960, the federal budget has been balanced twice, while deficits in the same period have accounted for over half of America's total national debt now exceeding $1 trillion. Federal spending rose from $92 billion in FY 1960 to over $650 billion in FY 1981, an increase of over 700 percent. These statistics rightly lead to doubt of Congress' ability to conduct sound fiscal policy within the present budget process, giving impetus to the present drive to use constitutional means to restrain spending.

The Constitution can be amended in two ways. The first is the process that has been used to adopt every amendment since the original document -- through a two-thirds vote by both houses of Congress followed by ratification by three-fourths of the states. The second is for two-thirds of the states to call a Constitutional Convention for the pupose of adopting an amendment -- which then must be ratified by three-fourths of the states.

Proponents of the balanced budget amendment are using both methods. Thirty-one states have adopted resolutions calling for a convention, only three short of the necessary number to convene a convention; this is having the effect of forcing congressional action on the issue. Identical bills before the Senate (S.J. Res. 58) and House (H.J. Res. 350) are expected to be acted upon during this session of Congress in order to avert a convention. President Reagan, in an April 29 nationwide television address, urged passage of an amendment, stating "Only a constitutional amendment will do the job. We've tried the carrot and failed. With the stick of a balanced budget amendment, we can stop government's squandering, over-taxing ways and save the economy."

While the amendment before Congress raises some serious questions, it does address the major problems inherent in America's budget process -- the bias toward ever higher levels of federal spending and the lack of political accountability for either the use of deficit spending or automatic tax increases. It is not a quick remedy for all economic problems, but would favorably alter the method by which budgets are made.

BACKGROUND

Balanced budgets were part of America's "unwritten Constitution" from the nation's infancy until the onset of the Great Depression and the Keynesian revolution in economic thought in the 1930s. Nearly universally accepted was the maxim that the nation should live within its means. Though massive debts accrued during both the Civil War and World War I, surpluses returned as the norm. Budgets were formed not on the basis of desired expenditures, but on the basis of the expected revenue for that year. This linkage between spending and revenue, coupled with the longstanding belief that public debt is an evil, constrained Congress from spending more than the nation could afford.

This philosophy remained dominant until the 1930s, when revenues dropped sharply and massive spending for public relief began. Keynesian economic theory, which calls for deficits during periods of high unemployment and surpluses when there is inflation, became widely accepted. Manipulating the budget, it was felt, could counterbalance the business cycle. This seriously challenged the tradition of a yearly balanced budget. Additionally, widespread support for government involvement in social services led to the vast government spending that continues today. In 1930, public expenditures accounted for three percent of the GNP; today the figure is twenty-three percent.

The acceptance of a countercyclical budget policy with increased government involvement in social welfare coincided with fundamental political changes. The public started looking toward Congress and the federal government to provide increasing services, thus making the provision of constituent services a major requisite of every Congressman's tenure. As political parties have declined in power, pressure has increased on Congressmen to provide for their districts, since the attention has swung to each individual member's record. Thus, Congressmen try to keep their districts happy and themselves in office. The result has been massive boosts in spending in times of both recession and inflation -- a practice that fatally violates Keynesian precepts. It is the inability of Congress as an institution to control the spending habits of members as individuals that has spawned the current crusade for budgetary reform.

THE AMENDMENT

The bills before the House and Senate state:

> Section 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directly to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.
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> Section 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.
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> Section 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.
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> Section 4. The Congress may not require that the states engage in additional activities without compensation equal to the additional costs.
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> Section 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.
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> Section 6. This article shall take effect for the second fiscal year beginning after its ratification.

Sections 1 and 2 are the critical parts of the amendment. The first section in essence requires a balanced budget each year, unless three-fifths of Congress goes on record as endorsing a specified deficit. A deficit can also occur if actual receipts fall below expected receipts, which would normally be the case during a recession.

While Section 1 requires a balanced budget, Section 2 limits the growth in revenues to the rate of growth in national income. Thus, if GNP rose three percent in a given calendar year, tax receipts could not rise by a greater rate than that in the next fiscal year. Combining the two provisions, the amendment limits the growth in national income. The end result is a double-barreled restaint on the federal government's propensity to spend beyond its means: 1) a balanced budget and 2) controlled growth in federal outlays.

These restrictions would result in major changes in the budget process that could have widespread effects on our political system. The consistent use of deficit spending over the past two decades has allowed Congress to resort to deficit spending and inflation-driven bracket-creep without having to cast a politically difficult vote. This has barred the electorate from being able to place responsibility on individual members of Congress; in effect the electorate has been denied an effective voice in the budget process. This makes Congress very vulnerable to interest-group pressure.

Without a spending limitation, members of Congress can accommodate one spending interest and gain political capital without reducing other spending programs and facing political disadvantages. The political costs of excessive spending are deferred, resulting in high inflation (if the debt is monetized), huge deficits, and higher taxes, while the political benefits of the spending are immediately appreciated by those affected by the program and the Congressmen who support it. By the time the negative effects are visible, it is possible that those responsible for the harm may have already left office. A similar process occurs through the progressive tax structure, because inflation and economic growth automatically generate more revenue without the need for a potentially unpopular tax increase.

Taxpayers are the losers under the present system. Unlike the pressure groups, the taxpayers are woefully unorganized and have varying interests. When programs are examined on an individual basis, the cost to each taxpayer is barely noticeable, but when the costs of all the programs are added, the impact is severe. The requirements of balancing the budget and limiting the growth in spending will give the taxpayers an equal opportunity to influence spending decisions through the ballot box.

Under the amendment, Congressmen will be forced to remain aware of public opinion because the votes for deficit spending and tax increases will be votes directly on those issues. This should result in an examination of priorities when programs are considered. The spending limitation will force Congress to make choices, which should lead to more efficient government. If Congress deems it necessary to spend more than what is expected in receipts for the year, it has the option of voting for either a stated deficit or a tax increase. Members of Congress can be defeated at the polls on the basis of their votes for either deficit spending or tax increases -- or they can be defeated for their unwillingness to use these measures when it is deemed necessary by the public.

The second section of the amendment establishes a relationship between the growth in receipts and the rate of growth in national income. This creates a budget process that is in part countercyclical. The twenty-one month lag between the midpoint of the calendar year that governs the increase in national income and the midpoint of the fiscal year could cause receipts to grow more rapidly than fiscal year national income during periods of recession, moderating downturns in the economy, and to grow more slowly during expansionary periods, reducing inflationary tendencies.

Section 2 also opens the possibility that government spending as a fraction of national income will decline. The tie between the rate of growth in national income and the rate of growth in receipts (and thus outlays from Section 1) provides a limit on spending that can be reduced over time. Milton Friedman explains, "...the limit is based on a year-to-year change, and hence, if in any year actual outlays are less than the maximum permitted, that sets a new and lower base for all future increases."[1]

THE DEBATE

Opponents of the amendment contend that fiscal policy is an inappropriate subject for a constitutional amendment and that Congress can restrain itself through legislative means. Representative Jim Jones (D-OK), Chairman of the House Budget Committee, stated that "there is no substitute for pure discipline and a constitutional amendment won't provide it."[2] And Representative Peter Rodino (D-NJ), Chairman of the House Judiciary Committee which oversees H.J. Res. 350, concurred, explaining, "Firm political resolve is needed to control budget growth. If that will does not exist, a constitutional amendment won't help. If the will does...an amendment would not be needed to bring about the fiscal balance we all want."[3]

History has taught, however, that mere statutory rules do not work, mainly because of the biases toward spending that the amendment seeks to negate. Even a Congress firmly committed to budgetary responsibility faces tremendous obstacles both short- and long-term. Statutes can be repealed by Congress as easily as they are enacted, by a simple majority; and one Congress cannot dictate permanent policy to a subsequent Congress. For example, the Federal Budget Control Act of 1974 mandated a balanced budget for FY 1981. The 1981 deficit was $57.9 billion.[4] The statute

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1 Milton Friedman in "Pass the 27th Amendment," Barron's, February 22, 1982, p. 11.

2 "Congress Ponders Budget Balancing Amendment," New York Times, April 2, 1982, p. A18.

3 Ibid.

4 Budget of the United States, Fiscal Year 1983.

that called for the elimination of automatic tax increases through bracket creep by 1985, part of last year's tax cut package, has already been targeted for deferral by the Democratic leadership. The Constitution is the only lasting restraining mechanism on government power.

Another argument levelled against the amendment is that it is inflexible. Opponents fear that it would lock Congress into a policy of restraint in recessions and emergencies. The amendment's countercyclical features will moderate recessions without congressional manipulation. And if deficits are desired, Congress can vote for them. The amendment's intent is not to prohibit Congress from incurring a deficit, but to put Congress on record when it does so.

As for the argument that Congress would have to raise taxes to balance the budget in a recession, the amendment merely requires that planned revenues and outlays be in balance. If economic conditions during the year cause actual revenues to fall below actual outlays, the terms of the amendment would not be violated. Finally, the amendment may be waived during wartime.

It is also contended that a balanced budget amendment is biased against the poor. Yet the amendment does not require cuts in existing services, it only limits the growth in federal expenditures. Nor does the amendment dictate how the available revenue is to be spent. Congress is expected to act responsibly, and will be more likely to do so when the budget process is opened by the amendment to more public scrutiny.

The major weakness of the amendment is its lack of a strong enforcement mechanism. The only stated provision for enforcing it is that "The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement." This stipulation is vague and leaves much room for bypassing the amendment's intentions. If either the Congress or the President ignore their responsiblities, it is extremely doubtful that the amendment could be effectively enforced through the court system. The Senate Judiciary Committee Report stated:

> It is the view of the Committee that the role of the Federal judiciary in reviewing compliance with the proposed amendment will be sharply limited -- by both the Constitution and past judicial practices -- for the following reasons: (a) there would only rarely, if ever, be "standing" in any individual or group of individuals to challenge alleged breaches of the amendment; (b) even if such "standing" were conferred, the courts would normally treat issues raised under the amendment as "political questions" to be decided in the discretion of other branches of government; and (3) [sic] it is questionable that the courts would find most issues arising under the amendment to be "justiciable" in the sense of presenting the kind of "case" to

which the judicial power attaches under Article III of the Constitution.

However, the Report also states that "while there may be no sanctions expressly contained in Senate Joint Resolution 58 for violation of any particular provision, it must be recognized that Congress and the President are expected to act in accordance with the Constitution."[6] While this statement might sound obvious, it nonetheless is extremely important. The nation's leaders are sworn to uphold the Constitution's provisions. While statutes can and have been ignored by lawmakers, the Constitution cannot. Because the amendment forces Congress to focus on a few key votes for deficits and tax increases, the ballot box can be used in some cases to deal with violators. Additionally, Congress is free to enact any new law that it deems necessary to enforce the amendment, though two commonly mentioned possibilities, increased presidential impoundment powers and a line-item veto are unlikely to be passed by Congress.

Unfortunately, there are numerous ways in which compliance of the amendment can be achieved while violating its intentions. Though no distinction is made between "on budget" and "off budget" outlays, "regulations, government-sponsored, privately owned corporations and other devices can be used to re-allocate resources as effectively as spending and taxation. As such activities escape the modicum of control imposed by current budget processes, they are more likely to run wild."[7] The possibility that resourceful Congressmen and bureaucrats would use these means is real, and they could seriously hamper the amendment's effectiveness.

CONCLUSION

It is clear that the American budget process is seriously deficient. It is also apparent that the public is concerned about federal spending and is willing to use constitutional means to change the system. In a September 1981 Gallup Poll, 67 percent of those surveyed favored a constitutional amendment to balance the budget and restrict spending; only 19 percent were opposed. This support cut across traditional political lines. The ultimate question, then, is not whether a constitutional amendment should be adopted, but whether this is the best one possible.

S.J. Res. 58/H.J. Res. 350 possesses economic and political virtues vital to the health of the American system. The elimination or sharp reduction in deficit spending and the limitation on

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6 Report of the Committee on the Judiciary, United States Senate on S.J. Res. 58, Report No. 97-151, July 10, 1981 (Government Printing Office, Washington, D.C.), p. 61.

7 Rudolph G. Penner, "The Nonsense Amendment," New York Times, March 28, 1982.

spending will reduce inflationary monetary policies and allocate more financial resources to the private sector. The provisions that would force open votes in the Congress on deficit spending and tax increases will significantly reduce the budget process' bias toward spending by increasing individual accountability. The Amendment, moreover, provides enough flexibility to allow for the smooth running of government, as well as political disincentives to prevent violation.

While the amendment does not guarantee that the budget will be balanced by the end of the year, it at least gives the public more voice in the budget process. A government that continues to expand without restraint is a government that chokes off the private sector. To prevent this, the federal government needs imposed discipline. This is just what the balanced budget amendment will provide.

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