

Analysis of HJ Res 2 Balanced Budget Amendment

This resolution was introduced in January, 2015, by Rep. Robert Goodlatte and had 94 cosponsors as of June 11, giving it more support than any other Balanced Budget Amendment in the 114th Congress.

The provisions of HJ Res 2 are fairly standard for balanced budget amendments. The total outlays of the Federal government during each fiscal year are to be no more than receipts for that year. The debt limit can be increased only by a three-fifths vote of each house, instead of the current majority. The President must submit a balanced budget to Congress. Tax increases would require a majority of each house rather than a majority of those voting, which seems to be an attempt to make it slightly more difficult to raise taxes than cut spending. It would take effect five years after ratification, allowing time to gradually phase out any existing deficit.

The customary problems with balanced budget amendments are that they contain loopholes and lack a practical means of enforcement. HJ Res 2 suffers from both.

There are two explicit loopholes allowing deficit spending. Section one requires that Federal outlays not exceed revenues, but allows Congress to ignore this at any time and for any reason by a three-fifths vote in each house. Section 5 allows Congress to run a deficit by declaring war or passing a resolution declaring “an imminent and serious military threat to national security”, which requires only a majority vote.

The military threat loophole would be easily invoked given that it requires only majority support and that we seem to live in times of perpetual serious military threats. The amendment attempts to limit the damage by allowing a deficit only to the extent that extra spending is “made necessary by the identified military conflict.” However, there is nothing to prevent Congress from claiming that it would have reduced military spending in order to increase domestic spending, but the “serious military threat” makes it necessary to postpone those cuts. Once the imaginary cuts in defense spending have become the baseline, those costs can be attributed to the war and considered as exceptions to the balanced budget requirement while allowing the domestic spending increases.

The three-fifths vote to suspend, which does not require using wartime as an excuse nor involve any imaginary spending cuts, is likely to become a common practice. Given that members of Congress will come under enormous pressure from constituents resisting any cuts in programs from which they benefit, it will usually be easier to get three-fifths to vote for deficit spending than a majority to vote for painful spending cuts. The rule of thumb in dealing with the budget is that

using loopholes to avoid spending cuts is always the political course of least resistance.

There is no enforcement mechanism in the amendment other than the three-fifths vote to raise the debt limit (and the debt limit itself appears nowhere in the Constitution – it could be abolished by Congress at any time). Yet finding a practical method of enforcement is the key to making a balanced budget amendment work. Section 6, which formally recognizes the necessity of using estimates when Congress and the President prepare their budgets, is a reminder that no one ever really knows in advance what the revenues or expenses of the Federal government are going to be. The President may propose a budget, based on optimistic estimates, which he claims is in balance. Congress may pass that budget, unwilling to question those estimates and perhaps create the necessity of cutting some spending from the President's proposal. If it eventually becomes obvious that the government is going to run a deficit, how is that to be prevented?

Merely saying in the Constitution that outlays are not to exceed revenue will not make it happen. Article I, Section 2 of the Constitution clearly states that after each census the number of representatives for each state is to be adjusted to match the new population figures. However, following the 1920 census, Congress failed to act. There was no way to force them to do what the Constitution mandated and the 1910 census numbers remained in effect for an extra decade.

HJ Res 2 seems to assume that Congress and the President would cut spending (or raise taxes) in order to eliminate the deficit, but that is unlikely. No one would want to take responsibility and anger the voters. Congress might go through the motions of voting on various bills, allowing every member to say that he had voted for a balanced budget, while none receive the necessary majority. (This is exactly what was done in 1995 when the House voted on term limits amendments.) No one member would have to take responsibility for the failure. The deficit would remain.

The great flaw in all balanced budget amendments is that voters prefer that they continue to receive whatever Federal spending is coming to them, and consider that more important than balancing the budget. If the public were truly demanding that spending be cut (and/or their taxes raised), it would have already been done. As long as the public opposes the steps needed to balance the budget, Congress and the President will eagerly use every possible means to avoid it.

*Prepared by The Conservative Caucus Foundation
92 Main Street, Ste 202-8, Warrenton, VA 20186 tccf.foundation
540-219-4536 info@conservativeusa.org*