



Legislative Bulletin.....November 17, 2011

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H.J.Res. 2—Proposing a Balanced Budget Amendment to the Constitution of the United States

Key Take-Away Points

- This is the first House floor vote on a Balanced Budget Amendment (BBA) since the House passed a BBA for the first time in the history of the United States Congress in 1995 by a vote of [300-132](#).¹ H.J.Res. 2 is identical to the 1995 House-passed version with the exception of the amendment’s effective date and military waiver provision described below in this bulletin.
- The BBA makes explicit in our country’s founding document that the official fiscal policy of the United States is to spend only the amount of taxpayers’ dollars that the U.S. Treasury collects each fiscal year.
- This week our nation’s publicly held debt eclipsed [\\$15 trillion](#) for the first time in our history. Our future fiscal sustainability depends upon responsibly addressing how to rein in future deficits and debts.

For more details on these points, please see below.

H.J. Res. 2—Proposing a Balanced Budget Amendment to the Constitution of the United States (Goodlatte, R-VA)

Order of Business: The joint resolution is scheduled to be considered today, Thursday, November 17, 2011, under suspension of the rules requiring a two-thirds majority vote for passage. It will be debated pursuant to a resolution to be considered this afternoon ([H.Res. 466](#)) providing authority for the Speaker to bring H.J.Res. 2 to the floor at any time through November 18, 2011. The resolution also extends debate time from one hour to five hours.

¹ H.J. Res. 1 in the 104th Congress failed by one vote in the Senate by a vote of [65-35](#). Senator Majority Leader Bob Dole (R-KS) switched his vote from “Yea” to “Nay” to preserve his right to call the BBA up for reconsideration.

Summary: H.J. Res. 2 amends the Constitution of the United States to require a balanced budget each fiscal year subject to limited waiver exceptions. A description of the joint resolution's provisions are below:

➤ [Section 1: Total Outlays v. Total Receipts](#)

- Provides that total outlays for any fiscal year must not exceed total receipts for that fiscal year unless *three-fifths* of the whole number of each House of Congress provides by law for a specific excess of outlays over receipts by a roll call vote.

➤ [Section 2: Debt Limit](#)

- Prohibits any increase of the publicly held debt of the United States unless *three-fifths* of the whole number of both Houses of Congress provide for an increase by law by a roll call vote.

➤ [Section 3: President's Budget](#)

- Requires the President to submit a balanced budget to the Congress prior to each fiscal year.

➤ [Section 4: Increasing Revenue/Taxes](#)

- Requires a *majority* of the whole number by each House of Congress to increase revenues by a roll call vote. This means that it would be more difficult to raise taxes compared to current law, which only requires a majority of those present and voting to increase taxes.

➤ [Section 5: Waiver of Provisions](#)

- Permits a waiver of provisions of the BBA for any fiscal year in which a declaration of war is in effect. Additionally, it permits a waiver of provisions in any fiscal year in which the "United States is engaged in a military conflict which causes an imminent and serious military threat to national security" declared by a joint resolution adopted by a *majority* of the whole number of each House of Congress and signed into law by the President. **Important Note:** Any waiver must specifically identify and be limited to the specific excess or increase for that fiscal year made necessary by the identified military conflict.

➤ [Section 6: Enforcing Legislation](#)

- Provides for Congress to "enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

➤ [Section 7: Outlays and Revenues Defined](#)

- Defines “total outlays” as all disbursements from the U.S. Treasury *except* funds for repayment of principal on the federal debt and “total receipts” as all monies received by the U.S. Treasury *except* borrowed funds—this prevent Congress from borrowing funds to balance its budget.

➤ [Section 8: Effective Date](#)

- Establishes the effective date of the BBA as the fifth fiscal year beginning after the requisite three-fourths of the states ratify the amendment.

Additional Background: The Budget Control Act of 2011 (P.L. 112-25) signed into law this summer included a requirement that both the House and Senate vote on a BBA before December 31, 2011. Under Article V of the U.S. Constitution, there are two ways to amend the Constitution. One way requires Congress to establish a constitutional convention for the purpose of proposing an amendment whenever two-thirds of state legislatures apply for a convention.² The second—and most often used method—occurs whenever two-thirds of its Members from both Houses of Congress pass an amendment to be sent to the states for ratification.³ H.J. Res. 2 seeks passage of a BBA by two-thirds of both Houses of Congress.

Since summertime, debate on the merits and form of a BBA has intensified on Capitol Hill and among outside groups. To facilitate this debate, the RSC published a [policy brief](#) highlighting the differences between two BBA versions⁴ that were receiving attention as well as sponsored a BBA Mini-Convention on October 6, 2011 attended by House Members, Senators, outside groups, and interested observers.

With the United States running federal budget deficits in all but six of the last 50 years, and recent reports that the publicly held debt has reached its apex of over \$15 trillion, most conservatives agree that a BBA is necessary to institute fiscal discipline of how taxpayers’ money is spent. However, conservatives have expressed divergent opinions on which BBA version⁵ the House should consider.

² This method has never been implemented although it came close in the mid 1980s when 32 out of the required 34 requisite states applied for a convention to amend the Constitution for a BBA.

³ The U.S. Constitution has been amended 27 times in its history. Article V requires ratification of a congressionally-passed amendment by three fourths of the fifty states to amend the Constitution.

⁴ The policy brief analyzes H.J. Res. 1 and H.J. Res. 56—a version supported by 47 U.S. Senators.

⁵ The Heritage Foundation released a [report](#) called *The House and Senate Balanced Budget Amendments: Not All Balanced Budget Amendments Are Created Equal*.

On June 6, 2011, 103 Members signed a [letter](#) to Speaker John Boehner and Majority Leader Eric Cantor highlighting the need to “fundamentally and permanently reform the way that Washington budgets and spends...” through enactment of a BBA with “strong protections against federal tax increases and including a Spending Limitation Amendment (SLA)...” In July, the House passed H.R. 2560, the Cut, Cap, and Balance Act of 2011 by a vote of [234-190](#) that conditioned an increase in the statutory debt limit upon passage of such a BBA.⁶

Additionally, many outside groups support this version. A recent Heritage Foundation [blog](#) notes that:

“A BBA without these provisions [spending caps & supermajority requirement to raise revenues] doesn’t address the underlying spending problem. [puts pressure on Congress to increase taxes](#) or issue more debt rather than cut spending or reform entitlements, and invites unelected judges to insert themselves even more in the policymaking process. Which is to say that, rather than simplifying matters, a weak BBA would likely make the situation much worse.”

Outside groups that have issued recent letters showing dissatisfaction against a BBA that does not include a spending limitation component and supermajority for increasing taxes:

60 Plus, Americans for Sovereignty, American Conservative Union, American Council for Immigration Reform, American Spectator, American Values, Americans for Limited Government, Americans for Prosperity, Americans for Tax Reform, Carleson Center for Public Policy and American Civil Rights Union, Center for Urban Renewal & education, Christian Coalition of America, Citizens for the Republic, Citizens United, Committee for Justice, Concerned Women for America, Constitutional Coalition, Cost of Government Center, Council for America, Council for Citizens Against Government Waste, Faith & Freedom Coalition, Family Research Council, For America, Heritage Action for America, Less Government, Let Freedom Ring, Liberty Center for Law and Policy, Liberty Council Action, Maryland Center-Right Coalition, National Legal & Policy Center, Ohio Liberty Council, Patrick Henry Center for Individual Liberty, renewing American Leadership Action, Small Business & Entrepreneurship Council, Stand America, Taxpayers Protection Alliance, Tea Party Patriots, The Mommy Lobby, Tradition, Family, & Property, Traditional Values, Traditional Values Coalition, Young America’s Foundation, and Weyrich Lunch.

Conservative supporters of H.J. Res. 2 maintain that this BBA version—with 242 cosponsors—is a step in the right direction that makes increasing taxes and the debt ceiling more difficult. They also maintain that it allows legislative creativity in how to implement legislation to enforce the BBA. Lastly, H.J.Res. 2 supporters explain that it is a BBA version that has a legitimate chance for Congress to send it to the states for ratification since it is virtually the same BBA that came within one vote in the U.S. Senate of doing so in 1995. The Council for Citizens Against Government Waste and the National Taxpayers Union support H.J.Res. 2.

⁶ Other versions of the BBA offered this Congress by RSC Members include H.J.Res. 1 (Goodlatte); H.J. Res. 4 (Buchanan); H.J. Res. 11 (Broun); H.J. Res. 23 (Schweikert); H.J. Res. 52 (Buchanan); H.J. Res. 54 (Walsh); H.J. Res. 56 (Walsh); H.J. Res. 81 (Amash); and H.J.Res. 84 (McClintock).

Outside Organizations Opposed to a BBA: The bottom of page 28 of the Judiciary Committee [report](#) for H.J.Res. 1 lists organizations opposed to that BBA version.

RSC Bonus Facts:

- The National Conference of State Legislatures (NCSL) has traditionally reported that 49 states must balance their budgets, with the state of Vermont being the exception; and
- President Ronald Reagan in a 1982 national [address](#) stated:

“Most Americans understand the need for a balanced budget, and most Americans have seen how difficult it is for the Congress to withstand the pressures for more spending. This amendment will force government to stay within the limit of its revenues. Government will have to do what each of us does with our own family budgets – spend no more than we can afford. Only a constitutional amendment will do the job. We've tried the carrot, and it failed. With the stick of a balanced budget amendment, we can stop government squandering, overtaxing ways, and save our economy.”

Committee Action: Representative Bob Goodlatte (R-VA) introduced H.J. Res. 2 on January 5, 2011, which was then referred to the House Committee on the Judiciary. No further action on H.J. Res 2 has occurred.

Administration Position: The Obama Administration released a Statement of Administration Policy (SAP) “*strongly opposing*” H.J. Res. 2.

Cost to Taxpayers: The Congressional Budget Office (CBO) has not released a cost estimate for H.J.Res. 2. However, CBO released a cost [estimate](#) for a similar BBA, H.J. Res. 1, that the Judiciary Committee reported out favorably. The estimate for H.J. Res. 1 states, “The budgetary impact of adopting this amendment to the Constitution is very uncertain because it depends on when it could take effect and the effect and the extent to which the Congress would exercise the discretion provided by the amendment to approve budget deficits.” CBO also expressed that assuming that current laws remain unchanged, the budget deficit in 2018—the first year the amendment could potentially take effect—would total \$585 billion (2.8% of GDP), where outlays would equal 23.3% and revenues would be 20.4%.

Do the Bill Expand the Size and Scope of the Federal Government?: No.

Do the Bills Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Do the Bills Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Constitutional Amendment does not contain any earmarks.

Constitutional Authority: The Constitutional Authority Statement printed in the *Congressional Record* upon introduction states, “Congress has the power to enact this legislation pursuant to the following: Article V of the U.S. Constitution.”

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