

Testimony of Congressman Robert C. "Bobby" Scott
Hearing on "The Need for the Balanced Budget Amendment"
Committee on the Judiciary
House of Representatives
2141 Rayburn House Office Building
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10:00 a.m.

Thank you, Chairman Goodlatte and Ranking Member Conyers for the opportunity to discuss my concerns with the idea of adding a so-called balanced budget amendment to our Constitution. Reducing our deficit and balancing our budget are goals of every member on this panel, but I worry that we often get distracted by the title of these resolutions without having a serious discussion about whether or not the specific provisions of the proposal will actually help balance the budget. If we are ever going to balance the budget, the fact is that it's going to require Members to cast some tough votes. And many of these votes will be career ending votes. A constitutional amendment cannot change that reality.

One of my first consequential votes in this body was on the 1993 Clinton Budget. That budget included tax increases and spending cuts, many of which were at the time very unpopular but it was the fiscally responsible thing to do. Not one Republican voted for the '93 Clinton Budget and Vice President Gore even had to cast the tie breaking vote in the Senate. When the 218th vote was cast in the House by then-Congresswoman Marjorie Margolies-Mezvinsky, Republicans on the floor didn't say "way to go" but instead said "you got to go" and chanted "Bye Bye Marjorie." That vote was used to defeat the Congresswoman and fifty-three other House Democrats the following year. That is what happens when you cast tough votes that will actually balance the budget – some members will lose their seats. Needless to say, that 1993 vote was a tough vote, but in eight years it helped create over 20 million new jobs, the Dow Jones Industrial Average more than tripled and it led to the first balanced budget in a generation. By 2001, as a result of the 1993 Clinton Budget, the Congressional Budget Office projected surpluses large enough over the next decade to totally pay off the debt held by the public by 2008.

The fact is that most of the proposed balanced budget amendments would actually make it all but impossible to pass a deficit reduction plan similar to the 1993 Clinton Budget. One proposal, H.J. Res. 1, requires a three-fifths majority of both the House and the Senate to enact a revenue increase. Sometimes revenue increases are necessary in order to reduce the deficit. A supermajority requirement would make such necessary revenue increases more difficult to pass and therefore it would obviously make it more difficult to balance the budget. Limiting revenue increases may be a desirable policy for some members, but suggesting that it would actually help balance the budget is just absurd.

Several of the proposed amendments require that a budget not in balance can be passed by a three-fifths majority of the whole number of the House and the Senate. The House budget resolution marked up last week, and in fact nearly every budget considered in the House over the last decade, was not balanced in the first fiscal year. Each of these budgets, including the House Republican budgets and even past proposals offered by the conservative Republican Study

Committee, would therefore have required a three-fifths majority under the provisions of most of these balanced budget amendment proposals. None of the budgets passed by the House between 2014 and 2017 garnered a three-fifths vote. It should be obvious then that a tough deficit reduction plan would be harder to pass with a three-fifths supermajority rather than a simple majority. So H.J. Res. 1, although called the Balanced Budget Amendment, would in practice make it harder to actually balance the budget.

Now, proponents of these balanced budget amendments will argue that their proposals include a five year window from the time of ratification until the provisions of the amendment actually take effect. This so-called "glide path" would supposedly give Congress the necessary time to "make the tough choices" to gradually bring down outlays (or perhaps increase revenue) in order to meet the requirements of the amendment. However, none of the proposals require Congress to make that type of progress. While passing a balanced budget amendment would falsely credit Congress with being fiscally responsible and build in five years free of worry of the amendment's requirements, once that five year period has passed, all we would have done is delayed a very difficult choice.

So if Congress does not take the five year "glide path" window seriously to move the budget towards balance, do we balance the budget cold turkey in the 5th year when the provisions of a balanced budget amendment take effect? Likely not, because no one would want to vote for the spending cuts and/or tax increases necessary to balance the budget in one year. And so, under almost all of these proposals, a three-fifths vote would then be required to pass any credible budget presented, including a deficit reduction plan that balances in the out years. The question then is whether a three-fifths majority is more likely to produce a fiscally responsible budget requiring career ending votes or a fiscally irresponsible budget that will help every member get reelected – with lots of spending increases and earmarks along with tax cuts for every income group. Obviously if a three-fifths vote is required, it is more likely to be the irresponsible Christmas tree budget where every Member gets a present under the tree. It is important to note that none of the proposed amendments place any limit on how far out of balance a budget can be, if it gets to three-fifths. A three-fifths requirement would make an already dysfunctional budget process even more so and only push the nation further into the fiscal ditch.

The evidence of such fiscal irresponsibility mustering a three-fifths vote is clear. The 2013 fiscal cliff deal, which permanently extended most of the 2001 and 2003 Bush-era tax cuts, got three-fifths despite adding \$3.9 trillion to the deficit. And most of the No votes were a result of the tax cuts not being large enough, and therefore the deficit not being big enough. So, notwithstanding the title, H.J. Res. 1 would make it harder to balance the budget. This proposal will likely increase the deficit due to Congressional leaders needing to buy votes by adding additional spending and tax cuts to get the requisite supermajority necessary to pass an unbalanced budget.

And what if the amendment did result in a balanced budget every year – is this even a good idea?

Litigation over what GDP or economic output is in a given year would be one problem. Another problem would occur when there is any limit on outlays as a share of economic output or GDP, which would severely restrict a future Congress from responding to the needs of the nation in times of economic distress.

Perhaps most disturbing is that many of the proposals contain language requiring a three-fifths vote to raise the debt ceiling. This dysfunctional provision would institutionalize the fiscal drama over the last seven years when it came to raising the debt ceiling in order to prevent the United States from defaulting on its obligations.

Finally, while focus appears to be debating the title and not the actual impact of the provisions of these proposals on the budget, I would like to note that many of the provisions found in these proposals are not in many state constitutions. In testimony before this committee in 2011, one former governor, testifying in favor of a federal balanced budget amendment, bragged about how successful his state's balanced budget amendment was. Unfortunately, he had to acknowledge that not one of the provisions in the proposed amendment before the committee at that time was in his state's constitution. No three-fifths requirement to pass a budget. No two-thirds or three-fifths requirement to raise revenue. No three-fifths requirement to borrow money. We were debating the title and not the actual provisions of the proposal before the committee. I hope that will not be the case this time.

Mr. Chairman, we shouldn't be distracted by misleading titles, but we should notice that these so-called balanced budget amendment proposals would drastically encumber an already difficult legislative process to responsibly reduce the deficit. As I said earlier, balancing the budget often requires tough, career ending votes. Not only do these resolutions do nothing to change that reality, most of them will actually make such votes less likely, and will only make our fiscal situation worse.