

Honor the Constitution: Try a balanced-budget law

By Kenneth Janda

Perhaps mandating that the federal budget be balanced is a good idea, perhaps not. But amending the U.S. Constitution to force a balanced budget seems perilous. Why not pass an ordinary law requiring the president to produce a zero-deficit budget?

Before examining this option, let's review some history and facts about the budgetary process.

Today, the president prepares the budget and Congress approves it. That was not always the case. Before 1921, Congress prepared the budget under its constitutional authority to raise taxes and appropriate funds.

Up to then, Congress formed the budget piecemeal by the actions of eight committees that approved estimated expenditures submitted to Congress from bureaus without executive supervision. No one in government was responsible for the "big picture"—the budget as a whole. The president's role was essentially limited to approving revenue and appropriations bills, just as he approved other pieces of legislation.

Soon after World War I, Congress realized that the budgetmaking process needed to be centralized. By passing the historic Budgeting and Accounting Act of 1921, it thrust the responsibility for preparing the budget onto the president.

The new law created the Bureau of the Budget to help the president write an executive budget submitted annually to Congress. Congress retained its constitutional authority to raise and spend funds, but now it would begin work with the president's budget as its starting point. Henceforth, all executive agencies' budget requests had to be funneled through the bureau (which became the Office of Management and Budget in 1970) to be reviewed for consistency with the president's overall economic and legislative program and for impact on total government expenditure.

As a result of this 1921 law, the president sets the framework for the U.S. budget. Congress frequently amends his budget up or down for both minor and major programs, but the president usually determines the broad outlines of the budget that Congress passes by determining spending priorities and making revenue decisions. So the key to passing a balanced budget (or nearly balanced) is to require the president to submit one in the first place.

This is the approach embodied in the House Republicans' draft balanced budget constitutional amendment, which requires Congress to "adopt a statement of receipts and outlays" for each fiscal

year "in which total outlays are not greater than total receipts." As means to this end, "Prior to each fiscal year, the president shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this article."

Whereas the 1921 law stated that the president must transmit to Congress a budget describing expected expenditures and receipts, under the proposed amendment the president would have the constitutional duty to submit a budget with outlays no greater than receipts. But why change the Constitution to require this? Congress could legislate that the president prepare such a budget and then rework the budget to its satisfaction.

Amidst the hoopla over a balanced budget amendment, this simple statutory alternative has gone unnoticed. It does raise two questions. Because President Clinton must approve such legislation, why would he sign a bill requiring that he take the heat of cutting spending or raising taxes to balance the budget? The answer has three parts: (a) if a balanced budget amendment passes (which seems likely) he would have to do that anyway; (b) in these times, he could not afford to veto a bill requiring him to balance the budget; and (c) under cover of law, he could at least define budgetary priorities and dare Congress to improve on his formula.

The second, more critical, question asks whether an ordinary law would do the job.

Certainly the government's experience with the Gramm-Rudman-Hollings deficit reduction program exposed congressional inability to meet even relatively mild annual deficit targets. By comparison the cold turkey, zero-deficit goal of a balanced budget is inconceivably harsh. Would should the constitutional imperative embolden Congress to take such drastic action? Former Sen. Warren Rudman described his own deficit reduction bill (introduced in 1985) as "a bad idea whose time has come," and the same can be said for the draconian action of amending the Constitution of the United States to require a balanced budget.

Like fooling Mother Nature, tinkering with the Constitution is fraught with danger. Even the House Republican leadership cites fears that it "will transfer budget decision-making to the courts, will result in massive cuts in Social Security and usurp Congress' constitutional authority to control government purse strings."

A constitutional imperative for balancing the budget raises another problem. Budgets are only predictions of expenses and revenues. Suppose Congress meets its constitutional mandate and passes a budget that predicts a zero deficit or even estimates a small surplus. Suppose also that its unrealistic economic assumptions shine through the smoke and mirrors. What happens when the numbers come in and a sizable deficit materializes?

In fact, this occurred in fiscal year 1971, when Richard Nixon's budget projected a \$1.3 billion surplus but the government actually ran a \$23 billion deficit. It occurred again in fiscal 1981, when Congress reworked President Carter's budget to produce a \$2 billion surplus but actually realized a \$73.8 billion deficit. What will happen to public trust in government when a budget deficit becomes a constitutional issue?

In adopting the 18th Amendment in 1919 that prohibited the sale of intoxicating liquors, we should have learned that unwise legislation was not improved by being put in the Constitution, where it resists any change. In 1993 we had to adopt another amendment (the 21st) to repeal prohibition. Mandating a balanced budget may turn out to be a good idea, but let's try it through legislation first.

Why would President Clinton approve such legislation requiring that he take the heat of cutting spending or raising taxes to balance the budget?