



CONSTITUTIONAL SOLUTIONS TO OUR ESCALATING NATIONAL DEBT: EXAMINING BALANCED BUDGET AMENDMENTS

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INTRODUCTION

Chairman Goodlatte, Ranking Member Conyers, and members of the committee: Thank you for inviting me here today to discuss the need for a constitutional amendment to help achieve credible and sustainable fiscal reform.

I am an associate professor of political science and business administration at the University of Rochester, where I hold the Ani and Mark Gabrellian professorship. I am also a senior scholar at the Mercatus Center at George Mason University. I have written a book, *Rules and Restraint* (University of Chicago Press, 2007), and several articles regarding budget rules and fiscal policy.¹ I testified before this committee's Subcommittee on the Constitution on May 13, 2011, on the same subject, and it is an honor to be asked back to address the full committee.²

My three-part message today is simple.

First, the United States' current fiscal trajectory must change.

Second, the short-run focus in politics, combined with Congress's institutional prerogatives, make achieving this change—in the form of durable, long-term reform—an elusive goal.

Third, a constitutional amendment, if properly designed, can create the pathway for Congress to do what's needed to place the United States government's finances on firm fiscal ground.

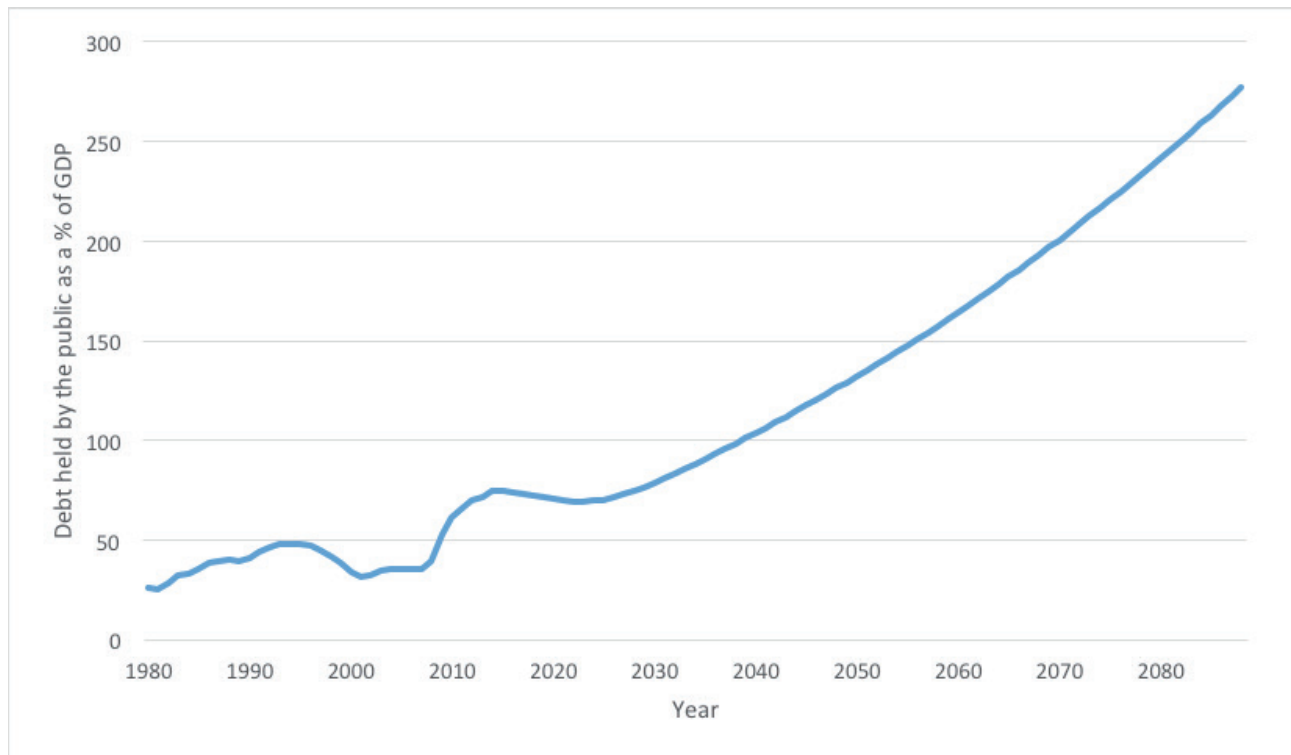
1. This testimony is based in part on arguments developed more fully in David M. Primo, "Making Budget Rules Work, 2014 Edition" (Mercatus Research, Mercatus Center at George Mason University, January 21, 2014), http://mercatus.org/sites/default/files/Primo_MakingBudgetRulesWork_v1.pdf. This document is included as appendix 2 to this testimony.

2. David M. Primo, "Should the Constitution Be Amended to Address the Federal Deficit?," Testimony Before Subcommittee on the Constitution, House Committee on the Judiciary, May 13, 2011, <http://mercatus.org/sites/default/files/Primo.Testimony.5.13.11.pdf>, included as appendix 3 to this testimony. The hearing record is available at http://judiciary.house.gov/_files/hearings/printers/112th/112-30X_66316.PDF.

THE STATUS QUO MUST CHANGE

We have made promises to current and future generations that we have no hope of fulfilling given current revenue streams. The US Treasury estimates that the national debt will approach 250 percent of GDP by 2080 (see figure 1).³ For the record, I do not believe this estimate. It's not that I dispute the Treasury's calculations. The problem is that the economy or the US government's finances—or both— will implode long before then. This estimate, along with long-term projections from the Congressional Budget Office (CBO) and others, sends a clear message: the current path is not sustainable.

Figure 1. US debt held by the public, 1980–2088 (projected)



Source: United States Department of the Treasury, *The Financial Report of the US Government for Fiscal Year 2013*, 2013.

FISCAL STABILITY REQUIRES QUICK AND CREDIBLE ACTION

To get on a stable fiscal path and stay there, Congress needs to act quickly and credibly. The solutions, which must include some reform to entitlements, will not be easy to implement, as short-run pain for long-run gain is a difficult sell politically.

What's worse, the longer Congress waits to act, the more difficult reform will be. Financial advisors tell us that the earlier we start saving for important goals like retirement or our children's education, the easier it will be to achieve those goals. While the federal government's budget is different than a household's budget in many ways, in this case the analogy is apt. To give you a sense of magnitude, the US Treasury reports that preventing the nation's debt from rising relative to the size of the economy over the next 75 years requires a permanent shift in expenditures and revenues of 1.7 percent of GDP. If we wait 10 years to take action, we will have to make a 20 percent larger sacrifice. If we wait 20 years, that sacrifice will be 50 percent larger.⁴

3. United States Department of the Treasury, *The Financial Report of the US Government for Fiscal Year 2013*, 2013, p. vi, <http://www.fiscal.treasury.gov/fsreports/finrep/fr/13frusg/FR-Summary-2013.pdf>.

4. Ibid.

Even if these political hurdles can be overcome, Congress faces still another obstacle—itsself. Article I, section 5 of the Constitution reads in part, “Each House may determine the rules of its proceedings.” This single line poses a major obstacle for legislators attempting to enforce budget rules. More generally, Congress, unlike a corporation, cannot write a contract that binds future members. This is true with respect both to substantive reforms—like changes to entitlements—and process reforms—like changes to budget rules. What Congress does today, a future Congress can undo tomorrow.

A CONSTITUTIONAL AMENDMENT CAN HELP

A well-designed constitutional amendment would place permanent, truly enforceable limits on Congress’s ability to tax and spend. Just as importantly, it would create an environment under which the question for members would no longer be whether to fix the nation’s fiscal problems, but rather, how to do so.

The promise of a constitutional amendment as an enforcement mechanism lies in its durability, but this durability is also a peril: bad rules can be locked-in just as good rules can be. While there are many ways to structure a constitutional amendment, there are certain features that all worthwhile proposals should possess. (Also see appendix 1, which lists ten principles for budget rule design.)

First, a constitutional amendment should be flexible to account for major disruptions, like war. To avoid “emergencies” becoming routine, large supermajorities should be required to waive the amendment’s spending or deficit limits. In addition, any funds spent under an emergency waiver should be paid back within a set amount of time—say, 10 to 15 years.

At the same time, the amendment also needs to be precise to prevent illegitimate end runs around its provisions. It needs to clearly define spending and revenue, for example, and specify how those figures will be calculated. These definitions should not be left to implementing legislation.

Finally, the amendment should account for economic ups-and-downs by setting targets or limits based on a multi-year period or on long-term economic performance. A key advantage of this smoothing approach, which has been adopted in countries like Germany and Switzerland, is fewer sudden changes to government programs.

An amendment that has economic shock absorbers and is hard to evade but possible to waive temporarily in the case of a true emergency would help make fiscal stability, not political uncertainty, the new norm in American politics.

WHAT THE CRITICS GET WRONG

Of course, nothing is perfect, and skeptics of constitutional budget rules criticize them in three ways. First, they point to specific design flaws, such as requirements that budgets be perfectly balanced each year.⁵ These sorts of critiques reinforce the need for careful rule design, but they do not support outright rejection of constitutional reform.

Others worry about US Supreme Court overreach if it is given the authority to adjudicate disputes over the amendment.⁶ These concerns about Court involvement can be addressed by limiting remedies and clarifying which parties have standing. Moreover, the clearer a rule is, the less leeway the Court will have in interpreting it.

Finally, some analysts claim that process reform cannot force a consensus where none exists. Alice Rivlin, a former director of both CBO and the Office of Management and Budget (OMB), has written, “A better budget process will not make budget decisions easy or create the will to compromise and solve problems. . . . Process can either hamper

5. See, for example, Ramesh Ponnuru, “A Balanced Budget Amendment: Still a Terrible Idea,” *Bloomberg News*, February 18, 2013, <http://www.bloombergvew.com/articles/2013-02-18/balanced-budget-amendment-still-a-terrible-idea-ramesh-ponnuru>.

6. See, for example, Robert H. Bork, “On Constitutional Economics,” *Regulation* 7, no. 5 (1983); Kathleen Sullivan, “Constitutional Amendmentitis,” *American Prospect Magazine* 6, no. 23 (1995).

decision-making or facilitate it, but only at the margins. . . . No process will work well unless the participants in the process want it to work.”⁷ Yet, this is precisely the point of a constitutional budget rule—to force change when politics makes change difficult.

CONCLUSION

In closing, amending the US Constitution is a serious step for the country, and one fraught with political and procedural challenges. We are unlikely to achieve credible, long-term budget changes, however, without such a drastic measure. While bipartisan successes in budgeting do occur on occasion—for instance, when President Bill Clinton and House Speaker Newt Gingrich worked together to balance the budget in the 1990s—these successes have typically been short-lived (just like that balanced budget). A constitutional amendment can help make future budget agreements durable and reduce political uncertainty.

Thank you again for inviting me to testify today. I welcome your questions.

ABOUT THE AUTHOR

David M. Primo is the Ani and Mark Gabrellian Professor and an associate professor of political science and business administration at the University of Rochester, where he serves as the director of graduate studies in the political science department. He is an expert in American politics, campaign finance regulation, and fiscal policy, and his current research focuses on corporate strategy in political and other “nonmarket” environments. Primo is the author of three books, including the award-winning *Rules and Restraint: Government Spending and the Design of Institutions*, and numerous professional journal articles. His op-eds have been published in the *New York Times*, *Wall Street Journal*, and other national newspapers. Primo has testified before Congress on the subject of constitutional budget rules, and his campaign finance research was cited by the US Supreme Court in a 2011 case addressing the public funding of elections. Primo joined the Rochester faculty in 2002 after receiving his PhD from Stanford University.

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7. Alice Rivlin, “Rescuing the Budget Process,” *Public Budgeting & Finance* 32, no. 3 (2012), 54.