

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HM 625

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Stargel and others

Voice Vote Y's --- N's

**COMPANION
BILLS:** SM 658

GOVERNOR'S ACTION: N/A

SUMMARY ANALYSIS

HM 625 passed the House on April 21, 2014, as SM 658.

The memorial serves as an application to Congress, pursuant to Article V of the U.S. Constitution, to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

The memorial does not have a fiscal impact.

The memorial is not subject to the Governor's veto power.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

Congressional Amendments

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

Constitutional Convention Amendments

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

Spending Behavior of the Federal Government

The forecasted federal spending for fiscal year 2014 is \$3.778 trillion. Mandatory spending will account for more than 60 percent (\$2.3 trillion), supporting programs such as Social Security (\$860 billion), Medicare (\$524 billion), Medicaid (\$304 billion), income support,¹ military retirement, and other

¹ Food Stamps, Unemployment Compensation, Child Nutrition, Child Tax Credits, Supplemental Security for the blind and disabled, and Student Loans

congressionally established programs.² Also included in fiscal year 2014's mandatory spending is the \$223 billion interest payment on the \$17 trillion national debt.³

The remaining \$1.48 trillion of the year's expenses will go towards discretionary spending as negotiated between Congress and the President. The Bipartisan Budget Act approves \$1.012 trillion in discretionary spending, including \$520.5 billion for Defense.⁴ President Obama's budget proposal appropriates \$1.242 trillion to run the rest of the federal government, including \$618 billion for military expenditure.⁵

Before the recession in 2007, the Executive Office of Management and Budget (OMB) maintained federal spending at levels below 20 percent of GDP each year. Therefore, spending only grew as fast as the economy (about 3 percent per year). However, spending has been at higher levels since the recession, peaking at 24.3 percent of GDP in fiscal year 2012. Fiscal year 2014 spending is budgeted slightly lower at 22.4 percent of GDP. As the economy improves, the OMB forecasts that spending will drop to 21.2 percent of GDP by fiscal year 2018.⁶

Spending has increased since 2007 due to anti-recession stimulus spending; defense spending for Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; increased Social Security spending due to changing demographics; and more entitlement program spending as poverty rose.

Balanced budget amendment

A balanced budget amendment is a constitutional prohibition on a government's spending exceeding its income. Most states have adopted balanced budget provisions, but the federal government has not. Such an amendment would make it unconstitutional for the federal government to run annual budget deficits and may solve the persistent problem of deficits and increasing debt.

Most amendment proposals include additional restrictive elements to be imposed on the federal government beyond maintaining a balanced budget. Some common examples include the following:

- A requirement that the President submit a balanced budget to the Congress;
- Provisions that allow some flexibility in times of war or economic recession provided that a congressional supermajority support the waiver;
- A provision requiring a supermajority vote of both houses to raise the debt ceiling;
- A cap on total spending unless waived by a supermajority of both houses;
- A limit on the total level of revenues unless waived by a supermajority of both houses;
- A provision to prevent the courts from enforcing the amendment through tax increases; or
- A provision assigning congressional responsibility to enforce the amendment through legislation.⁷

Proponents argue that as the legislative and executive branches are unwilling or unable to address the debt crisis through normal legislative procedures, only a constitutional constraint will be strong enough to lessen lawmakers' fiscally irresponsible over-spending. A constitutional requirement would impose

² The amount for Mandatory programs is increasing thanks to the huge number of Baby Boomers who are reaching retirement age. The two major senior programs, Social Security and Medicare, went from 28% of the budget in FY 1988 to 37% of the budget in FY 2014. By FY 2023, the OMB projects that these two programs alone will rise to 40% of total spending.

³ By 2023, interest payments on the national debt are expected to quadruple to \$763 billion, making it the third largest budget item, after Social Security (\$1.424 trillion) and Medicare (\$867 billion). See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf

⁴ See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf and <http://politicalticker.blogs.cnn.com/2013/12/10/the-budget-deal-in-plain-english/>.

⁵ Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf.

⁶ See http://useconomy.about.com/od/fiscalpolicy/p/Budget_Spending.htm

⁷ See <http://pgpf.org/Issues/Fiscal-Outlook/2012/06/062112-Balanced-Budget-Explainer>.

needed accountability for fiscal policy. A 2005 national survey quantifying public support for possible constitutional amendments found that 76 percent of respondents favored a balanced budget amendment.⁸

Opponents argue that such an amendment could limit the ability of future policymakers to use fiscal policy to counteract recessions or respond to national emergencies. They view lack of political will as the cause of our fiscal imbalances and so a procedural change will not adequately resolve the issue. Furthermore, they fear that the political pressure could lead to budget gimmicks that meet only the letter, not the spirit, of the law.

A balanced budget amendment converges on the federal government's financial bottom line, which is the result of complex accounting rules covering the multi-faceted legislative process and priorities. Policy differences and lack of political consensus often contribute to fiscal irresponsibility, overspending, and increasing debt. Although a constitutional balanced budget amendment may rein in our national deficits and debt, it cannot resolve the underlying political disparities that caused them.

Effect of the Bill

HM 625 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment to the U.S. Constitution. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

The memorial provides that its subject matter is to be considered the same as that of all presently outstanding balanced budget applications from other states. It is to be aggregated with those applications and tallied toward the required two-thirds of the states calling for a balanced budget amendment convention, but it should not be aggregated with any convention applications on any other subject.

Furthermore, the memorial constitutes a continuing application until at least two-thirds of the states apply for a balanced budget convention. HM 625 supersedes all previous Florida applications on the subject.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

⁸ Arthur H. Taylor, Fear of an Article V Convention, 20 BYU J. PUB. L. 101, 124-31 (2006).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.