

A Dopey Budget Idea from Jeb Hensarling and Mike Pence

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Posted by Bruce Bartlett



In today's *Wall Street Journal*, Republican Reps. Jeb Hensarling of Texas and Mike Pence of Indiana put forward a dopey idea for reducing federal spending so that they can appear to be fiscally responsible while still supporting every tax cut that comes down the pike and opposing any and all tax increases. Their simplistic idea is to just enact a constitutional amendment that would limit federal spending to "one fifth of the economy."

This is a terrible idea on so many levels that it is hard to know where to begin to dissect it, but here goes.

1. The Constitution has never in our history been used to enshrine a particular economic policy and it would be unwise to start now.
2. It will take years and extraordinary effort to get two-thirds of both the House and Senate to enact such an amendment. Keep in mind that every crappy delaying tactic that Senate Republicans have used against health care reform would certainly be used by opponents of this amendment. And what is the likelihood that such an amendment would ever even reach the floor given the current partisan makeup of Congress? If by some miracle this amendment made it through Congress, it would also have to get three-fourths of the states to approve it. At a minimum, going the constitutional route cannot be taken seriously as an answer to a problem of immediate concern.
3. When the congressmen say "the economy" one assumes that they are talking about the gross domestic product, a term with no legal definition. But perhaps they are referring to the gross national product or gross domestic income or national income. These terms are each slightly different but have at times been used as measures of "the economy."* In the third quarter of last year, GNP equaled \$14,363.7 billion, GDP equaled \$14,242.1 billion, GDI (which is supposed to be the same as GDP) was \$13,988.9 billion, and national income was \$12,259.7 billion. There's more than a \$2 trillion difference between the high figure and the low one, which means that spending might be \$420 billion higher or lower depending on which one is used.

4. Assuming that they meant GDP, there is another problem, which is that this figure is frequently revised; in fact, it is continuously being revised. And the magnitude of these revisions can be large over time. For example, back in 1981 we thought GNP in 1980 was \$2,627 billion; today we think it was \$2,822 billion.

5. An even bigger problem is that both the administration and Congress must necessarily develop the budget based on forecasts of GDP, which can sometimes be tragically wrong. For example, the budget for fiscal year 2009, which ended last Sept. 30, was first put forward by President Bush in January 2008. At that time, OMB estimated GDP for 2009 would be \$15,215 billion. It turned out to be \$14,259 billion—almost \$1 trillion lower than expected. CBO did a little better; its January 2008 estimate for GDP in 2009 was \$14,997 billion. Assuming that Congress used CBO's forecast, it would have appropriated almost \$150 billion more than permitted under the Hensarling-Pence proposal simply because of forecast error.

6. It would be one thing to impose a constitutional limit on spending if Congress had to vote on all of it every year; that is, if the entire budget consisted of discretionary programs. In fact, discretionary spending, which includes national defense, constituted only 35 percent of federal outlays last year, down from 61 percent in 1970. Since two thirds of the budget now goes either to interest on the debt or entitlement programs, how can this be controlled on a yearly basis? If too many people turn 66 and claim Social Security benefits, is Congress going to say they can't have them if it would push spending above 20 percent of GDP? Of course not; the idea is ridiculous.

7. Tax expenditures are a huge loophole through which spending can be driven. For example, instead of spending \$1 billion to buy some new equipment for the Army, the government could give the contractor a transferable, refundable tax credit worth \$1 billion. Even if the contractor had no tax liability, it could simply sell the credit to some business that had at least a \$1 billion tax liability. There would be no increase in spending as conventionally measured and taxes would simply be \$1 billion lower.

8. Loans and loan guarantees are another loophole. Or the government could mandate through regulatory or even tax policy that private businesses or state and local governments undertake certain activities that the federal government normally spends money on. (It's worth noting that there is no limit on taxation in the proposal; only spending is constrained.) The burden of government is not reduced when such methods are used, it only changes its form and location.

9. And of course there are the standard exceptions that Hensarling and Pence endorse for a declaration of war or a two-thirds vote by Congress to override the 20 percent limit. Since Congress hasn't formally declared war since World War II, presumably none of the wars since then, including those we are fighting today in Iraq and Afghanistan, would permit deviation of the 20 percent rule. I wonder what Dick Cheney thinks about that? One also wonders what would happen the following year if Congress

overrode the 20 percent rule by a two-thirds vote. Would spending have to be cut by an equal amount or could Congress simply enact a permanent override with one vote?

10. The whole question of enforceability is always glossed over by these constitutional approaches to the budget. Although Hensarling and Pence claim that their proposal is a “spending cap with teeth,” there is in fact nothing whatsoever in it that would require compliance. Congress, they say, “would be given the authority to enforce and implement it.” But Congress already has that authority and plenty of tools under the Budget Act of 1974 to implement a spending cap if it chose to. I guess that the congressmen just assume that the force of public pressure will make Congress and the administration be honest and law-abiding. But polls say that people already want a balanced budget and smaller deficits. Why would it be any different if there was a constitutional amendment mandating a limit on spending? Isn’t there a tremendous danger that the inevitability of Congress and the administration either sidestepping or just ignoring it would undermine the Constitution itself? Wouldn’t the courts have to take account of the flouting of it as opening the door to looking the other way when other constitutional provisions are violated as well? Or, alternatively, the courts might take it upon themselves to find a way of enforcing a spending limitation by mandating higher taxes, as the federal courts have forced local governments to do on occasion. I believe that state courts have also mandated higher taxes at times as well. At that point we might as well just dispense with Congress altogether.

In conclusion, this is a laughably bad proposal that deserves not one second of serious consideration. I’m embarrassed that I wasted so much time on it writing this post. But unfortunately, in this day and age, it appears that there is no idea too simplistic or unworkable to make the rounds through the right wing blogosphere to talk radio and hence to Fox News, so I feel obliged to at least try and stamp it out before it gains traction.

* In Senate Report 99-162 (1985), the Senate Judiciary Committee explained a constitutional amendment that would have allowed spending to rise no faster than “national income.” It had this to say about what the term meant (p. 52): “The precise concept of national income is intended to remain subject to the discretion of the Congress. Currently reported concepts include gross national product, net national product, national income, and gross domestic product. Any of these may be chosen, as might some new measure determined by the Congress.”

Addendum: Jon Chait puts in his two cents [here](#). Daniel Gross comments [here](#).