



Written by [Joe Wolverton, II, J.D.](#) on March 7, 2011

## Non-binding Balanced Budget Amendment Proposal Fails in Senate

On Wednesday, the U.S. Senate failed to pass a non-binding “sense of the Senate” proposal that would have called on Congress to pass a balanced budget amendment to the Constitution.

The vote was 58-40, two votes short of the 60 required to pass such a measure.

The effort was spearheaded by first-term Republican Senators Mike Lee of Utah and Pat Toomey of Pennsylvania (photo, above). In a bit of legislative legerdemain, the bill was tacked onto a bill attempting patent reform. The seemingly incongruous vehicle for this measure did not go without notice. Senator Patrick Leahy (D-Vt.) pointed out to the two freshmen that amendments are required to be germane to the larger bill and that to act contrariwise was to show a lack of respect for the floor manager.



Undaunted, Senator Toomey explained to [The Hill](#) his purpose in sponsoring the measure, “I don’t think we have time to waste, time to wait, time to kick this can down the road anymore. We’ve done that too long. The fact is a balanced budget amendment to our Constitution would provide the kind of fiscal straightjacket that this government clearly needs.”

There is a long history of congressional attempts to pass a balanced budget amendment. As early as 1798, Thomas Jefferson wrote:

I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government; I mean an additional article taking from the Federal Government the power of borrowing. I now deny their power of making paper money or anything else a legal tender. I know that to pay all proper expenses within the year would, in case of war, be hard on us. But not so hard as ten wars instead of one. For wars could be reduced in that proportion; besides that the State governments would be free to lend their credit in borrowing quotas.

The issue came up again as part of [Section 4 of the Fourteenth Amendment](#) (proposed on June 13, 1866 and ratified on July 9, 1868):

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.

In more contemporary times, on May 4, 1936, Representative Harold Knutson (R-Minn.) introduced a resolution in support of a Constitutional amendment that would have set a *per capita* ceiling on federal debt incurred during peacetime.

While there is little rational argument to be made against the principle of frugality espoused by Lee, Toomey, and the others who have attempted to restrain congressional spending insanity through such constitutional “straitjackets,” there is a simpler way: enforce the limits on congressional spending that have always been a central element of our Constitution and its expression of enumerated and limited



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power.

That is to say, were we to forcefully disregard any measure passed by Congress that exceeded the very narrow scope of limited powers granted to it by the Constitution, then there would be no need to pass any balanced budget amendment. In fact, such an amendment would be, and in fact is, redundant. We need not build a new fence around the beasts in Washington; we simply must zealously patrol the one already in place.

*Photo: Senator Patrick Joseph "Pat" Toomey, Sr. (R.-Pa.)*



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