

8. DEBT, TAXES, AND THE CONSTITUTION

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Former Senator Schmitt Warns Of Unsustainable Consequences of Extreme National Debt and Tax Burdens

What are these people in Washington thinking?! Do they believe the rest of us can't count? Or don't count! The national debt already stood far too high at about 40% of gross domestic product (GDP) in 2009. Now, the President proposes that the FY2011 budget create a total national debt of at least \$14.3 trillion, or about 70% of GDP! On top of this, he calls for \$2 trillion in tax increases – the surest way to further sap the strength of the economy, increase unemployment, and quickly drive debt to over 100% of GDP and the country into another Great Depression. Call this budget “the audacity of despair!”

How does massive national debt hurt? Let us count the ways. As every family knows, debt limits “liberty and the pursuit of happiness,” that, along with “life,” are “unalienable” natural rights reserved to the people under the 9th Amendment to the Constitution. Debt puts someone else or some other nation, directly or indirectly in control of all major decision-making. Debt, like printing money, adds to the national money supply with its inevitable inflationary result. Debt, in short, destroys financial flexibility and confidence.

National borrowing also takes financial fuel from the private sector where it would be used to create jobs and personal and na-

tional wealth. Diverting that fuel toward increasing the size and influence of government has little or no overall effect on jobs and wealth creation. As national financial weakness increases, adding more debt will require paying higher interest when lenders perceived that the risk of default has increased. Artificially low interest rates have caused the interest on the national debt to decrease from \$450 billion in 2008 to and estimated \$350 billion in 2010; but these low rates cannot be sustained. Future interest payments on an unchecked and rising national debt can be expected to be over \$500 billion - more than one-third of total annual federal expenditures!

How do massive tax increases hurt everyone? Taxes of any kind, even necessary ones, decrease basic freedoms of choice. Further, income taken from individuals and businesses to fund ever-larger government cannot be used to increase consumer demand or job creation to meet that demand. It is as simple as that. How many times must we learn that tax cuts constitute the only way to grow private sector jobs and incomes and get out of a recession? Did the great economic expansions following the Kennedy, Reagan, and Bush tax cuts teach us nothing? Had Congress restrained its spending habits and these three Presidents used the veto power more vigorously and repeatedly,

Americans would have benefited even more from these previous tax cuts. Even more fundamentally, taxes and tax increases that are not shared evenly across all income earners violate the 5th and 14th Amendments' requirement for "equal protection of the law" as well as dilute the rights of the people reserved under the 9th Amendment.

The lunacy of the President's budget proposals outshines even the irresponsibility and unprecedented economic and employment disaster of his first year in office. As measures of that calamity, true unemployment has hit at least 17% and the Federal Government now spends 25% of what Americans produce. The proposed FY2011 budget will be ripe for constitutional challenge before the Supreme Court if authorized, appropriated, and signed into law at a fraction of proposed expenditures, tax increases, and debt. It also would call for the 2010 election defeat of any Representative or Senator casting a vote in support.

Implicitly, Congress has the power to borrow money to pay for the legislatively authorized activities of the United States Government. Article I, Section 8, Clause 1 give Congress the "Power To lay and collect Taxes, Duties, Imposts, and Excises, to pay debts..." Having this power, however, does not relieve Congress of its constitutional duties to "provide for the Common Defence and general Welfare" also found in Clause 1. The burden of debt and taxes that would accompany this FY2011 budget condemns Americans and their economy to Carter-era stagnation, inflation, and worse. Higher taxes and more debt cannot be sustained, either logically or mathematically. This hardly constitutes legislative action that provides "for the general Welfare!

Congress' approval of debt, expenditures, and taxes anywhere near the levels

proposed by the President not only prevents adequate expenditures on national security requirements but allows China, our principle future adversary, to hold massive amounts of our debt, currently estimated to be over three quarters of a trillion dollars. These increasing holdings by China will continually threaten both our economy and our flexibility in preserving our national interests and access to strategic energy and other resource supplies throughout the world.

The President has comparable if not greater culpability than the Congress for these unconstitutional extremes in fiscal policy. The Preamble to the Constitution obligates the President to "provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." Further, his Oath of Office binds him to "preserve, protect and defend the Constitution of the United States." The FY2011 expenditure, debt, and tax proposals, if enacted into law, neither "provide for the common defense" nor "preserve, protect and defend the Constitution..." A new Congress must take a formal look at the President's violation of his oath and Constitutional duties.

Under this President and Congress, we will see both the dangerous expiration of previous individual and business tax cuts as well as the imposition of even higher levies of historic proportions. Disguised through higher consumer costs, the new taxes on business eventually are paid by individuals buying goods and services. These rising taxes, as well as their increasing complexity, will stifle individual enterprise and remove the financial incentives that drive the nation's human core of innovation, economic motivation, small business formation, and job creation.

Assuming massive change as a result of the 2010 Congressional elections, in what may be the last chance to halt this juggernaut toward national socialism, what should a new majority in Congress do? America requires several critical long-term initiatives that will begin a true and lasting economic recovery. The first, and easiest step: Stop all federal bailouts and so-called stimulus funding and recover as much of what has been wasted as possible. Let the market and bankruptcy courts take over from here as probably could have been done in 2008 and 2009 with much less harm than two Administrations have done.

The second and most essential step: Stop digging deeper into this financial hole of recession, stagnation, and future inflation. This will not be easy as the shovels are many, and they have been wielded for 75 years. Any changes, though, will have to be significant, beginning with a freeze on entitlement funding at 2010 levels. Still, changes must be gradual to avoid social disruption due to the long dependence of so many on the digging. Unfunded mandates, that is, permanent entitlements, constitute the largest and most threatening shovels, particularly Medicare, Medicaid, and Social Security. Reform of these various programs can be accomplished by a combination of tax-exempt savings and tax-deductible private insurance that puts responsibility for limiting expenditures in the hands of beneficiaries.

History has shown the success and popularity of individually directed and inheritable, tax-exempt savings accounts, even those specifically targeted at healthcare and retirement. The combination of tax incentives for saving with the government's per capita contribution of what would have otherwise been spent on the entitlement would rapidly grow accounts to an actuarially responsible

limit. As accounts grow, the taxpayer's annual contribution to each would decrease. At the same time, Congress has the constitutional power under the Article I, Section 8, Clause 1, "general Welfare" power to allow all Americans to have tax-deductible private insurance for catastrophic or long-term healthcare and for longer than normal retirement. In this context and to let competition reduce costs, Congress should exercise its constitutional power to regulate all insurance as part of interstate commerce rather than allowing States to prevent interstate insurance.

The third and most compassionate step: Provide tax incentives for private investment and job creation to begin filling our financial hole as fast as possible. Start with rejecting or repealing any new taxes proposed in the FY2011 budget; making the 2001 tax cuts permanent; cutting marginal and capital gains tax rates even further; and providing instant depreciation of capital expenses. Next, develop a transition schedule to a flat tax on income to restore the constitutionality of our tax system. Finally, we should repeal any taxes on savings, investment, inheritance, and charitable giving, eventually benefiting all Americans. These tax policy actions, when combined with a vast increase in private capital from savings and insurance-based reform of entitlements, would begin a rapid economic recovery and give the momentum of confidence and trust to a new era of prosperity for Americans.

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