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GIVING THE BUDGET PROCESS TEETH

INTRODUCTION

A decade of experience with the Congressional Impoundment and Budget Control Act of 1974 has shown it to be neither a procedural nor a fiscal cure-all. For the seventh year in a row Congress has failed to complete its budget bills by the start of the new fiscal year in October. Consequently, once again an omnibus continuing resolution[1] was sent to the President's desk on September 30. The perennial use of the continuing resolution fallback epitomizes the lack of procedural and fiscal discipline in Congress.

Continuing resolutions usually contain legislation and appropriations thrown together without careful consideration. They tie the hands of the President, who must accept every dollar or shut down the government with a veto -- as President Reagan did in November 1981.

This is not the only sign of the inadequacy of the process. The Senate was more than six weeks late in passing a first budget resolution this spring. What is more, Congress regularly breaches the budget ceilings it sets in its resolutions and waives the procedural guidelines set forth in the Act.

There is a growing chorus -- melding such usually disharmonious voices as House Democrats and Senator Barry Goldwater (R-Ariz.) -- proposing dozens of substantive changes in the budget process. A bipartisan House Task Force, chaired by Anthony Beilenson (D-Cal.), has recommended changes to the House Rules Committee, while Senator Goldwater has introduced a bill (S.1739) that virtually would repeal the Budget Control Act of 1974. Goldwater unfairly blames budget delays and failures on the process itself, yet the process merely provides the institutional and procedural framework. Budget decisions are political, and ultimately depend on the will of Congress. Failures reflect the number and complexity of decisions facing Congress, struggles over priorities, and a lack of restraint on the power of the appropriations and authorization committees.

Despite its shortcomings, the 1974 budget process has led to some significant improvements in budget information and fiscal order. Nevertheless, certain key refinements of the general structure are needed to give it teeth. For example, Congress should restore the integrity of the budget document and process by explicitly accounting for all spending and lending within the unified budget and closing procedural loopholes. Congress must reallocate its spending decisions, so that power over aggregate spending rests with such general interest bodies as the budget committees, the full Congress, and the President, and consolidate the fund distribution process within the program committees. Moreover, it is time to combine authorization and appropriations, institute a binding First Concurrent Resolution, enforce spending limits at subcommittee levels, possibly grant the president a line-item veto, and restrict waivers and supplementals.

Such modifications would strengthen the Budget Act and tighten fiscal control. The congressional budget process is complex. And since Congress cannot be bound tightly with laws, reform of the process can best be achieved with a package of technical changes, rather than by sweeping but unworkable reforms.

PROBLEMS WITH THE PRESENT PROCESS

The Congressional Budget Act of 1974 was designed to address three issues: 1) the determination of aggregate government spending levels; 2) the locus of budgetary power; and 3) the timeliness and efficiency of decisions.

Previously, total spending was determined by the summation of individual appropriation bills passed by congressional subcommittees. There was no mechanism for considering total spending as such, or for making tradeoffs between competing priorities. In addition, appropriations bills were often enacted late in the fiscal year to which they applied.

Congress did not have the information to assess the full impact of its budgetary actions. The executive branch controlled the principal sources of budget information and analysis (there was no congressional counterpart to the Office of Management and Budget), and reserved the threat of budget impoundment--that is, not to spend money appropriated by Congress. Consequently, the President's budget became the benchmark for all budgetary decisions, and budgetary power was vested primarily in the executive branch.

The Intent of the Budget Control Act

In response to this situation, and in particular to President Richard Nixon's attempts to use impoundment as a spending control, Congress enacted the Congressional Budget Act. This Act created the budget resolution, the budget committees, the Congressional Budget Office (CBO), and reconciliation, the process used by Congress to force its committees to comply with the fiscal policy of the budget resolution. The Act significantly restricted the President's budget power.

- Concurrent budget resolutions, emanating from the new budget committees, were to set targets for aggregate levels of spending and revenues. Under this procedure, the First Concurrent Budget Resolution (FCR), due May 15, is only a guide for the appropriations committees. The Second Concurrent Resolution, due September 15, is meant to be a binding limit on total spending.

The creation of the budget committees and the CBO provided Congress with a wealth of budgetary information on which to base analysis and decision making. The Budget Act also created a schedule for budgetary activities and mechanisms intended to enforce that schedule.

Congressional Budget Timetable

On or Before:	Action to be Completed:
15th day after Congress reconvenes in January	President submits his version of the upcoming budget to Congress.
March 15	Committees submit views and estimates to budget committees.
April 1	CBO submits annual review to budget committees.
April 15	Budget Committees report First Concurrent Resolution to their Houses.
May 15	Committees report bills authorizing new budget authority and Congress completes action on FCR.
7th day after Labor Day	Congress completes action on bills providing budget and spending authority.
September 15	Congress completes action on second Concurrent Resolution.

September 25	Congress completes action on reconciliation.
October 1	Fiscal year begins.

Results of the Budget Control Act

The Budget Control Act has not lived up to its name. The budget resolutions have become political documents, without effective mechanisms for enforcing fiscal restraint. Congress knowingly breaches spending limits it has set in the First Concurrent Resolution.

The new structure also has not resolved the issue of where power should reside. It stripped the executive branch of nearly all overt budgetary power, but did not provide an appropriate substitute. Unencumbered by presidential impoundment, budgetary power shifted towards the appropriations committees, the House Ways and Means Committee and the Senate Finance Committee, who now determine both the composition and size of government spending.

This power shift has not been conducive to spending restraint. Members of the authorization and appropriations committees are under special interest and lobbyist pressure to expand program spending. Members take less note of the costs of legislation than does the executive branch with its broader, national constituency. Moreover, the budget schedule remains unenforceable. Deadlines are waived as budget legislation endures seemingly endless debate by committee after committee.

Criteria for Reform

Despite their deficiencies, budget committees and congressional budget resolutions are still the best tools available for controlling aggregate federal spending. The process itself is not to blame for the explosion of federal spending. Congress is side-stepping its own procedure.

Power to determine aggregate spending must be taken from the authorization and appropriation committees and vested in institutions less subject to special interest manipulation, such as the budget committees (which consider the entire spending plan, rather than narrow segments). Further, the executive branch should be brought back into the budget process to check congressional spending. To restore balance, incentives are needed to speed congressional action, and enforcement mechanisms, to keep program spending within the limits set by Congress itself.

ALTERNATIVE STRATEGIES BEFORE CONGRESS

To improve the budget process, several remedies have been proposed. Among them:

1) Biennial Budgeting: Senators William Roth (R-Del.) and Dan Quayle (R-Ind.) propose a biennial budget cycle. Authorizations would be passed the first year of the cycle, and appropriations the second. They claim that, by stretching the process over two years, legislators could meet procedural deadlines, consider budget decisions more carefully, and spend more time on other legislation.

The difficulty with this plan is that it ignores the problems of spending restraint and missed deadlines. Notes Senate Budget Committee (SBC) Chairman Pete V. Domenici (R-N.M.): "Instead of decongesting the congressional calendar, the calendar might be filled even more than it is now with supplemental appropriations, revisions of budget resolutions and other corrective actions."[2] A two-year cycle also means that a new President and Congress would be forced to wait a year and a half before they could make major changes in spending.[3]

2) Abolition of the Budget Process: Senator Goldwater proposes to abolish the budget process and budget committees, and replace them with a constitutional amendment to balance the budget. Except for preserving the CBO, Goldwater's bill essentially would restore the pre-1974 process. Even if a balanced budget amendment could be passed, however, it would be difficult to enforce, and as such, would not end up limiting spending. Repudiating the budget committees and reconciliation would grant the appropriations and authorization committees enormous budget power--with little control from the executive branch.

3) Omnibus Appropriations Bill: The Beilenson Task Force, a bipartisan congressional group created to analyze the budget process, endorsed Rep. David Obey's (D-Wisc.) proposal that the House should adopt an omnibus appropriations bill. According to this plan, the appropriations committees would present recommendations to the House floor. Congress would then determine subcommittee limits and draft a first budget resolution. The subcommittees would make detailed allocations, and then the spending and tax bills would be combined into one omnibus resolution. The budget committees would have priority in offering amendments to reconcile spending bills with the budget resolution.

The proposal might seem attractive in that it would place a clear limit on spending. But it is unlikely that the appropriations committees would hold down spending or complete such a massive bill on schedule. While the plan would put some restraint on congressional spending, it would erode executive influence further. Faced with the alternative of rejecting an entire budget, the President virtually would be forced to rubber-stamp any level of congressional spending.

RECOMMENDATIONS

Improvements in the budget process fall into three categories. There are: structural changes that would enhance the financial integrity and information of the budget document; changes in the institutional arrangements to restrain spending and reduce inefficiencies; and rule changes to expedite decisions and strengthen enforcement.

Changes in Budget Structure

1) Problem: The unified budget "hides" approximately $70 billion per year in government spending. Offsetting receipts, such as loan repayments, for instance, are deducted from budgetary authority and outlays. But this understates federal use of the nation's resources. About $20 billion has been shifted "off-budget." Beginning with the Export-Import Bank in 1971, Congress has moved various federal agencies off the unified budget--the entire social security program is scheduled to be moved off-budget in 1993. Such off-budget outlays do not appear in budget outlays or the deficit, and are not subject to the ceilings set by congressional budget resolutions.

Solution: The use of offsetting receipts and off-budget outlays should be ended. All outlays should be reported in gross terms, and all accounts reported within the unified budget.

2) Problem: Much of the $170 billion in direct and guaranteed loans appear only in the off-budget credit budget. Morever, loan outlays are represented as the difference between loans tendered and debts collected. This distorts the true cost to the government by hiding the interest and bad debt subsidies.

Solution: A CBO analysis recommends that departments continue to secure loans through the Federal Financing Bank(FFB), but that the FFB should sell all direct and guaranteed loans to private investors.[4] The loss the FFB would incur by discounting the below-market loans would equal the government subsidy and would be appropriated to the original loaning agency as an on-budget item.

Changes in the Congressional Structure

1) Problem: The distinction between the authorization and appropriations committees has nearly vanished. Authorizing legislation once dealt solely with substantive matters; authorizations were for raising "such sums as may be appropriate." But authorization committees now recommend specific spending levels, rather than laying out the objective of

spending. Often these recommendations are set at unrealistically high levels in order to encourage large appropriations.

The appropriations committees were designed to set funding levels for each authorized program. But there has been a significant increase in the number of legislative provisions contained in appropriations bills and in unauthorized funding tacked on to such bills.

Solution: Combine the appropriation and authorization committees into one set of program committees, as suggested in 1973 by then Budget Director Charles Schultze.[5] This would reduce special interest leverage, and save both time and money.

Changes in the Budget Process

1) Problem: This past spring House Democrats passed a first budget resolution calling for $25 billion more than the President had requested. The move was a political statement, not a serious budget document. In the Senate, internal political disagreement caused the Senate Budget Committee to be six weeks late with their version of a resolution. Originally due July 22, the reconciliation package has yet to be passed. There is no incentive to take the budget resolution seriously. It is not binding, waivers are common, and restraining points of order, rare. As such, it affords the perfect opportunity for political grandstanding.

Solution: First Congressional Resolutions should be binding. This would close the rhetorical sideshow, enforce aggregate spending limits, and make all further budget decisions subject to a clear fiscal plan. This alone, however, would not restore order. The Second Concurrent Resolution, due each September, is theoretically binding, but Congress finds ways to skirt enforcement. Consequently, to deal with this and other problems, additional measures are needed.

2) Problem: The budget is arranged in two ways. The President's budget and the budget resolutions are arranged by functional category. Congressional spending bills, on the other hand, are arranged by subcommittee responsibilities. These conflicting approaches diffuse the power of the budget committees and lead to unnecessary redefinitions of allocations.

Solution: If all budgets, including the President's, were arranged according to the same format, it would be far easier to conform to the process.

3) Problem: Although the budget resolutions provide for aggregate as well as functional allocations, only the aggregates are enforced by congressional rules. And while points of order can be used only to halt consideration of bills that exceed

stipulated aggregate levels, Congress easily evades this constraint. Low priority bills tend to be presented early in the session, when they will not be subject to points of order, and popular or high priority bills are held back until very late in the session, when media and constituent pressure can be used to withstand points of order.

Solution: Points of order should be permissible against functional or subcommittee allocations, rather than just aggregates. If they are overridden, bills should still be subject to delayed enrollment (not released to the President until all other bills are passed), thereby increasing fiscal restraint.

4) Problem: Supplemental appropriations make it easy for Congress to increase spending.[6] If a committee feels it cannot receive approval from Congress or the President for a full appropriation, it can request less than it believes to be necessary, to ensure passage, and then return near the end of the fiscal year to press for supplemental funds.

Solution: Emergencies do arise, and so Congress must be allowed to supplement earlier funding. If a two-thirds majority were needed for approval, however, supplementals would be less subject to abuse.

5) Problem: Senator Goldwater complains that the Senate constantly evades the requirements of the Budget Act by allowing procedural waivers and ignoring deadlines. "Since 1976," he points out, "the Senate has approved over 250 waivers"[7] of just one section of the budget act. The Senate also regularly ignores deadlines for the First Congressional Budget Resolution and reconciliation.

Solution: Waivers should be granted only by a two-thirds majority. But when committees fail to meet deadlines and waivers are denied, there must be a decisionmaker of last resort. If committees cannot make timely decisions, then greater authority should be given to the budget committees.

6) Problem: The President's only explicit power in the present budget process is through rescissions, deferrals,[8] or the veto of an entire appropriation bill. A veto is a very serious matter. Each appropriation bill contains hundreds of spending items, many for essential everyday operations. Congress, however, adds pork-barrel appropriations to necessary expenditures, and often passes appropriation bills at the very end of a session, when it is difficult for the President to exercise his veto. Thus, the presidential veto has been reduced to a nullity.

Solution: Senators Alan Dixon (D-Ill.) and Mack Mattingly (R-Ga.) have proposed legislation (S.J. Res. 26, S.J. Res. 178, and S. 1921) allowing a presidential line-item veto. This is permitted in 43 states. Congress, however, has been unwilling to accept the shift in power that the veto would entail. But runaway federal spending, and the repudiation of presidential impoundment in 1974, have now caused the proposal to be considered more seriously.

The presidential line-item veto would have several benefits. It could eliminate pork-barrel expenditures, restore the president's veto power, and restrict congressional logrolling. It would subject the federal budget to detailed presidential review, while maintaining Congress's right to initiate and terminate spending. And there would be less pressure for the President to agree to marginal programs merely to ensure acceptable levels of aggregate spending.

There are problems, however with a line-item veto. Senator Lawton Chiles (D-Fla.), for example, fears that Congress "would add to program after program, making all our constituents happy and never have to look at the bottom line. We could pass that responsibility over to the President. He would cut the bill back down to size and be the spoilsport."[9] The line-item veto, in other words, might increase pork-barrel appropriations, forcing the President to accept the political liability of rejecting them. While this might be an unpleasant prospect for the White House, the line-item veto must be seen as a presidential responsibility, and not merely a privilege.

7) Problem: The figures presented in appropriations bills often underestimate the true cost of a program, for the express purpose of facilitating congressional approval. Once the program is in place, it is hard for Congress to turn down supplemental funding.

Congress has become expert at underfunding entitlement programs. In FY1983, for example, Congress agreed to the President's request for funding cuts in the food stamp program, but it did not authorize the entitlement legislation making the cuts possible. Consequently, funding ran out in nine months, and the President was forced to agree to a supplemental to fund the program.

Solution: Out-year figures should be stated explicitly in spending bills. Mandatory and discretionary spending should be distinguished. Budget Committee cost estimates and all relevant economic and programmatic assumptions should also be included in the final bill report.

8) Problem: "Continuing resolutions" have become vehicles for irrelevant riders and new authorizing legislation, because the President must either sign such resolutions or close down the government.

Solution: Riders should be prohibited. This would speed passage of a continuing resolution and reduce the opportunities for amendments intended to boost spending in future years.

9) Problem: The budget process provides little control over entitlements. Entitlements have permanent authorization, so spending continues without further committee action.

Solution: Reconciliation should target entitlements and provide multiyear spending levels. Entitlements also should be subject to sunset legislation so that spending would have to be reauthorized on a regular basis. At the moment, spending continues until Congress actually changes a program. This would force Congress to examine program parameters every year.

10) Problem: The reconciliation procedure is inflexible. In the Senate, for instance, germaneness requirements on reconciliation bills limit debate to changes in the law being reported. Alternative means of achieving savings cannot be considered.

Solution: Change Section 305(b) 2 of the Budget Act to make alternative proposals germane in achieving cuts required in reconciliation. Section 301(b) 2, the "elastic clause," which gives the budget committees wide discretion to interpret the Budget Act, must be preserved to assure that the budget committees have the power and flexibility to control spending. If the authorization and appropriations committees do not meet the requirements of reconciliation, the budget committees should be vested with the power to substitute their own provisions.

11) Problem: Budget resolutions set floor estimates on total revenues, thus encouraging Congress to cut budget deficits through increased revenues as well as through cuts in government spending.

Solution: Revenue legislation should be taken out of the budget process. Resolutions should include estimates of revenues, and thus of deficits, but reconciliation should not be used to increase taxes.

CONCLUSION

The congressional budget process is not fundamentally unsound. It fails only because Congress has found ways to evade the intent and enforcement procedures of the Budget Act. The process should be strengthened, not abolished. The budget committees and resolutions it creates are the only practical means available of restraining aggregate spending and encouraging economical and punctual budgets.

The steps outlined above would instill procedural discipline and financial integrity into the budget process. By making the First Concurrent Resolution (FCR) binding, and by strengthening enforcement mechanisms, these reforms would reduce the politicization now involved in drafting an FCR.

Power over aggregate spending would be shifted from the authorization and appropriations committees to the budget committees and the full Congress, and the moderating power of the President would be restored. Though the former committees have jurisdiction over the nature and distribution of federal spending, their current influence over total spending is like employing the fox to guard the chicken coop.

Federal spending has more than tripled in the past ten years. Real spending is 50 percent higher in FY 1983 than it was in FY 1973. The budget process alone cannot be expected to harness this spending explosion, but it can help. By establishing a clear link between spending programs and the taxes or debt that finance them, it can eliminate an institutional bias towards ballooning budgets. The budget process cannot change congressional interests, but it can restrain them through institutional checks and balances.

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ENDNOTES

1. A continuing resolution provides budget authority for ongoing programs and departments for which fiscal year appropriations have not been enacted by the beginning of the fiscal year.

2. Hearings Before the Task Force on the Budget Process for the Committee of Rules, House of Representatives, 97th Congress, 2nd Session, p. 382

3. For instance, if Congress had been on a biennial cycle in 1980, the 96th Congress (1979-80) would have already completed budget decisions for FY 1981 and 1982.

4. Marvin Phaup, A New Approach to the Budgetary Treatment of Federal Credit Activity. (Congressional Budget Office, forthcoming.)

5. Hearings on the Budget Control Act of 1973, 93rd Congress, 1st Session, 1973, p. 319.

6. Supplemental appropriations add funds to a regular annual appropriation. They are usually enacted when the need is too urgent to be postponed until the next fiscal year.

7. Congressional Record, August 4, 1983, S 11729.

8. Deferrals are presidential requests to delay temporarily the budget authority. A deferral may be overturned if either house votes against it. Rescissions are presidential requests to cancel budget authority. Both houses must approve of the rescission within 45 days.

9. Congressional Record, July 30, 1982, S94691.