Backgrounder

Published by The Heritage Foundation

No. 2360
January 13, 2010

Conrad–Gregg Commission Bill Is Wrong Approach to Fiscal Crisis

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Abstract: *The federal budget of the United States is on a disastrous course. Entitlement spending threatens to drive up federal spending in the next decades to an unprecedented proportion of gross domestic product. A budget commission, in conjunction with other steps, may be needed to jolt the legislative process into addressing the looming fiscal crisis, but the Conrad–Gregg commission as proposed is fatally flawed. Instead, a bipartisan budget commission must include the American people fully in the discussions and must not override appropriate protections for the minority in Congress.*

After enacting or proposing a surge of new spending and taxes during the past 12 months, the Obama Administration and the Hill leadership are suddenly focused on finding ways to tackle the startling long-term federal deficit. By the end of January, the mounting national debt will require the Senate to pass an increase in the federal debt limit to avoid a default. This must-pass action is an opportunity to attach legislation to the debt increase to alter the budget process and begin to tackle the problem.

Senate Budget Committee Chairman Kent Conrad (D–ND) and Ranking Member Judd Gregg (R–NH) have authored legislation (S. 2853) that would create a bipartisan commission to propose a package of steps that would be given fast-track authority in both houses. They and others want this legislation attached to any debt limit increase.

Talking Points

- The debt ceiling vote offers a rare opportunity for Members of Congress to alter the congressional budget process to begin addressing the mounting national debt.
- As the baby-boom generation retires, the rapid growth of the Medicare and Social Security entitlements, combined with increases in the Medicaid entitlement and other programs, will drive up federal spending in the next decades to an unprecedented proportion of gross domestic product.
- In principle, a budget commission could be structured in a way that could receive bipartisan support while avoiding the worst fears of both conservatives and liberals. Among other features, it would need to foster a national conversation on the range of options for addressing the long-term budget crisis facing the nation.
- The Conrad–Gregg proposal lacks the key ingredients and is fatally flawed.

This paper, in its entirety, can be found at: *www.heritage.org/Research/Budget/bg2360.cfm*

Produced by the Domestic Policy Studies Department

Published by The Heritage Foundation
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The Heritage Foundation
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While a commission of some form, in conjunction with other steps, may be needed to jolt the legislative process into addressing the looming fiscal crisis, the Conrad–Gregg commission has fatal design weaknesses. Among them are the following:

- The proposal does not provide for a full discussion of the broad options with the American people. Indeed, the commission's recommendations would be developed with little or no public input and then pushed through Congress.
- Although major fiscal issues will likely feature prominently in the 2010 election, the commission membership will be drawn from today's Congress, not the post-election Congress, and this Congress—not the new Congress—will vote on the commission's recommendations.
- Congress's own scorekeepers, within the constraints set by Congress, will estimate the impact of the commission's proposals. The minority members of the commission will not be able to require alternative projections based, for example, on dynamic scoring.
- Under the fast-track rules for considering the commission's recommendations, the congressional minority's rights are unduly limited.
- The commission procedure virtually guarantees an immediate tax increase, combined with questionable future entitlement savings.

The Fiscal and Legislative Problem We Face

The federal budget of the United States is on a disastrous course. As the baby-boom generation retires, the rapid growth of the Medicare and Social Security entitlements, combined with increases in the Medicaid entitlement and other programs, will drive up federal spending in the next decades to an unprecedented proportion of gross domestic product (GDP).

While proponents of the health reform legislation claim that their bills will slow the growth of Medicare, many of their proposed savings are politically inconceivable, such as a 20 percent cut in physician fees in 2011. Moreover, the reform would spend the supposed savings plus new taxes on a new health entitlement, so the net effect of reform will be to increase the future rate of entitlement spending.

If nothing is done to slow spending, the result will be either a sharp increase in deficits and debt or—to avoid that scenario—a massive increase in taxes. According to William Gale of the Brookings Institution, even if we assume that health reform has no net impact on the long-term budget deficit, public debt as a proportion of GDP will surge past its 1946 record within 20 years and then continue to rise rapidly. Closing the fiscal gap, says Gale, would take major tax increases or a new value-added tax (VAT) of 15–20 percent.[1] Either scenario would have severe effects on future U.S. economic growth.

Regrettably, Congress for many years has proven incapable of addressing the autopilot growth of federal entitlements. In fact, under both Republican and Democratic control, Congress has proven unable to enact and sustain significant steps to slow down their growth. There are several reasons for this, from an annual budget process that is not compelled to show the public—let alone deal with—the long-term fiscal situation to the general reluctance of politicians to curb popular government benefits.

A wide spectrum of fiscal analysts has jointly called for changes in the congressional budget process to address the political and procedural obstacles to constraining the rapid growth of entitlements.[2] These analysts have proposed several steps, including:

- Creating true long-term (perhaps 30-year) budgets for Medicare, Medicaid, and Social Security that are reviewed periodically (perhaps every five years). This would reduce the favorable budget treatment of these programs relative to other spending programs.

1. Alan J. Auerbach and William G. Gale, "An Update on the Economic and Fiscal Crises: 2009 and Beyond," The Brookings Institution, September 2009, at *http://www.brookings.edu/papers/2009/06_fiscal_crisis_gale.aspx* (January 12, 2010).
2. See Joseph Antos *et al.*, "Taking Back Our Fiscal Future," The Brookings Institution and The Heritage Foundation, April 2008, at *http://www.heritage.org/Research/Budget/upload/takingbackourfiscalfuture.pdf* (January 12, 2010).

- Increasing transparency and public awareness by making the long-term costs of the three major entitlement programs visible in the budget and budget process at all times.
- Instituting a commission in the budget procedure to keep entitlements within their proposed long-term budgets and to push Congress into addressing the long-term fiscal situation.

Opportunities and Dangers in a Commission

To be sure, proposing a commission designed to jump-start or fast-track the legislative process is an admission that the normal procedures of Congress are failing. It would be far better for American democracy if lawmakers were to make the tough decisions needed to restrain the dangerous long-term growth in spending and debt.

Yet political will may not be enough, given the built-in procedural and political incentives in the budget process that favor unsustainable entitlement promises. That has led some to argue for changes in the Constitution to curb the power of lawmakers to spend and tax. It has led others, including some proponents of constitutional curbs, to propose procedural steps including a commission.

A review of the history of fiscal commissions raises an understandable objection to creating a commission: It would simply become a vehicle to "solve" the problem by raising taxes rather than truly curbing spending. Indeed, given the current make-up of Congress and the executive branch, there is good reason to believe that the primary intent of the majority would be to secure some minority support to finance existing or even new spending with new taxes instead of building bipartisan support for real reductions in entitlement spending. Since a chronic long-term increase in projected spending as a proportion of GDP is the cause of the fiscal problem, not any decrease in future taxes as a proportion of GDP, a commission that resulted in tax increases that simply took the pressure off spending control would be a double disaster.

An understandable response to this concern is to say that a commission must be instructed by statute to rule out any tax increases. While solving the immediate concern, this position would make it politically impossible for any commission proposal to gain bipartisan agreement. In the same way, conservative support would collapse if liberals ruled out in advance any consideration of structural Medicare reforms or Social Security personal accounts.

Could a commission be structured in a way that might receive bipartisan support while avoiding the worst fears of both conservatives and liberals? In principle it could, but it would need to contain at least the following features:

- **The membership and procedures of the commission would need to make it impossible, in practice, for the commission to propose either tax rate increases or entitlement changes that would endanger vulnerable Americans.** The membership of the commission and the proportion of the membership required to endorse a key recommendation must enable liberal and conservative members to block features that are unacceptable to them.

  Of course, effective blocking-minority status for these members might result in gridlock, but not necessarily. Conservatives have traditionally argued that certain tax rate reforms and simplification, and some tax cuts (such as capital gains rate reductions), would produce increased revenues as a byproduct of faster economic growth. Many liberals agree that the growth of middle-class entitlements threatens to crowd out programs for the poor. Thus, a win-win agreement could be possible within the constraints of a blocking minority on the commission.
- **There would need to be alternative official projections of commission proposals.** The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) are currently the official "scorekeepers" of fiscal legislation, but each uses assumptions and methodologies that are criticized by many on each side of the aisle. Moreover, these scorekeepers work under constraints imposed mainly by the congressional budget committees.[3] Alternative assumptions and methodologies can make huge differences in projections over 50 or 75 years, and there will never be agreement on the assumptions and methodologies that should be used for long-term projections.

The American people must be brought fully into the commission discussion and must determine the outlines of the commission proposal.

To achieve bipartisan agreement on how a commission proposal should be scored, an alternative would be to allow the minority and majority to use at least one additional public or private body to estimate the consequences of a commission proposal. This would permit, for example, a projection using full dynamic scoring techniques. These alternative projections would need to be included in the official estimates that are used to guide legislation enacting the commission's proposals.

- **Expedited congressional review must not override appropriate protections for the minority.** While the purpose of a commission approach is to pressure or require Congress to consider difficult fiscal choices in an expedited way, a commission must not cross the line by undermining the needed protections for the minority party.
- **The American people must be brought fully into the commission discussion and must determine the outlines of the commission proposal.** A backroom commission of the kind that Congress frequently produces is not appropriate for addressing major entitlements and should be considered unacceptable. The only way to obtain broad agreement on a package of changes and for future Congresses to sustain them over time is to engage the American people fully in the conversation and allow them to achieve their own consensus. This requires a different approach from what is traditionally used in commissions.

  In particular, the commission process must have two stages. First, over a period of many months, the commission should provide the American people with background information on the long-term budget picture facing the nation, together with a range of options for addressing the underlying problem. It should foster a national conversation about the options and seek a consensus on the approach the country should take. That consensus should determine the outline of a bipartisan course of action. In the second stage, the commission should develop a legislative package in keeping with the outline and present it to Congress.

The Problems with Conrad–Gregg

The proposal that comes closest to incorporating these requirements has been introduced in the House (H.R. 1557) by Representatives Frank Wolf (R–VA) and Jim Cooper (D–TN). The same bill (S. 1056) has been introduced in the Senate by Senators George Voinovich (R–OH) and Joseph Lieberman (I–CT).[4] However, this proposal is not under active discussion in the Senate.

A backroom commission of the kind that Congress frequently produces is not appropriate for addressing major entitlements and should be considered unacceptable.

Regrettably, the Conrad–Gregg legislation does not contain some critical features and has additional design problems. Among the problems with Conrad–Gregg are:

- **There is no public conversation stage.** While the commission can hold hearings, Conrad–Gregg is not a vehicle for the kind of national dialog that is needed and no doubt will be demanded by ordinary Americans. Worse still, the legislation makes clear that the intent is to give as little time as possible for the public and Members of Congress to consider the full implications before voting. The commission is to produce its recommendations immediately after the

3. See Donald B. Marron, "Understanding CBO Health Cost Estimates," Heritage Foundation *Backgrounder* No. 2298, July 15, 2009, at *http://www.heritage.org/Research/HealthCare/bg2298.cfm*.
4. See Stuart M. Butler, "Bipartisan Entitlement Commission Needed to Control Spending and Debt," Heritage Foundation *WebMemo* No. 269, November 16, 2009, at *http://www.heritage.org/Research/Budget/wm2698.cfm*.

2010 election, and Congress must vote before December 23. This virtually guarantees a back-room process with little public or even rank-and-file Member input—reminiscent of the "Andrews Air Force Base" commissions in which a handful of political leaders nail down an agreement behind closed doors and then muscle it through Congress.

- **Members of the old Congress, not the new Congress, will be the commissioners and will make the legislative decision.** Commissioners are to be chosen from among the Members of the current Congress, and this Congress will vote on the recommendations of the commission—after the election. This means that the commission's proposal could be shaped by Members whose views have been firmly rejected in the election and may even have been defeated or chosen to retire. Moreover, in an election that is very likely to be in part a referendum on the economic and fiscal state of the country, the Congress that went into the election, not the Congress resulting from the election, will make the final decision. This makes it even more likely that the American people will not be properly included in the debate over the nation's fiscal future or allowed to shape the critically important legislation.
- **The CBO and JCT will be the arbiters of "success."** The legislation would use the traditional congressional scorekeepers and would not permit additional projections to be used officially to give a broad range of estimates, including one using full dynamic scoring.
- **The minority would have limited rights to object or propose alternatives.** Under the Conrad–Gregg fast-track legislation, the commission's proposal is the only game in town. Under the Wolf–Cooper legislation, by contrast, the chairman of the budget committee in each chamber may offer an alternative package for expedited consideration—as may the ranking member. However, under Conrad–Gregg no such amendments are permitted in the up-or-down procedure, thereby denying members the right to decide from among a limited number of alternative strategies under the expedited rule. Moreover, the traditional protection for the minority in the Senate in the form of crucial procedural motions and debate is limited, as are points of order.
- **Real tax increases and illusory entitlement curbs are the most likely result.** The combination of little public engagement, little time for review, lawmakers from the current Congress as commissioners and as the final decision makers, and no opportunity for alternative proposals almost guarantees that the Conrad–Gregg commission process would produce the scenario favored most by the current leadership, and the past 12 months of maneuvering and debate on health care indicate what that scenario is. The majority leadership has pressed for raising taxes while expanding Medicaid and other subsidized health coverage. To the extent that the majority has proposed to limit the Medicare entitlement, it is only to finance part of another health entitlement—and many question whether many of the promised Medicare savings will actually be delivered by future Congresses.

Not the Right Approach

The debt ceiling vote offers a rare opportunity for the legislative "planets to align" such that lawmakers feel compelled to amend the budget process to force themselves to make tough decisions. Therefore, when the opportunity arises, it is crucial that Congress takes the right action. However, so far, Members of Congress have shown little interest in using this opportunity to put into place real transparency by making the long-term fiscal situation prominent in the budget process. Nor is there interest, so far, in applying a real long-term budget to the major entitlements so that they must truly compete for resources with other major priorities, such as defense.

The only proposal currently in play as an amendment to an increase in the debt ceiling is a fiscal commission. Regrettably, the version of a commission that is under serious consideration is fatally flawed.

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