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## DISCUSSION PAPER

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A series of big ideas and policy concepts designed to foster conversation and debate within the policy community.

## An Analysis of Selected Budget Process Reforms

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### Abstract

*Responding to the breakdown of congressional budgeting over the past several years, analysts and lawmakers have offered a variety of proposals to correct specific flaws in the process and revive this most fundamental act of governing. Although full restoration likely will require a complete overhaul and a new budget act, examining these incremental changes can help to clarify the desirable elements of a broader reform. Understandably, most of the proposals emphasize making the process more efficient, more manageable, and more disciplined. At the same time, these practical aims should be weighed in the broader context of budgeting as an essential exercise of governing. The budget process should strive not merely to accommodate constitutional principles, but to advance them, reinforcing that framework as the fundamental platform for public policy. This discussion, therefore, examines selected reform proposals from the conviction that, as policymakers seek to craft a more rational process, they should focus on strengthening the practice of budgeting as a principal act of constitutional government.*

Since adoption of the congressional budget process in 1974, the procedure has rarely unfolded precisely on schedule or as planned. Conflicts large and small have been common, deadlines have been breached, and rules have been stretched to meet the demands of the moment. Customarily, Congress has found a way back to something resembling the “regular order” intended by the Budget Act. In recent years, however, the unraveling has been all but total,

with lawmakers effectively abandoning any pretense of systematic congressional budgeting.

In response, concerned analysts and legislators have offered a variety of proposals to correct discrete flaws and revive the process. The ideas range from structural and procedural revisions to enhanced fiscal disciplines to changes in how budget estimates are calculated and presented. Many of these concepts have been debated for decades; others are rela-

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**The failure of the congressional budget process to produce orderly federal budgets has induced many policy analysts and lawmakers to propose structural changes in the process. We asked Visiting Fellow Patrick Louis Knudsen to examine some of the leading ideas and evaluate them.**

tively new. Behind all of them, however, lies a recognition that Congress desperately needs to restore a regular and responsible practice of budgeting.

The revival is necessary for two principal reasons. First, Congress can alter the government's disastrous fiscal course only with a sustained effort to reassess public-sector activities and implement major policy reforms. As clearly demonstrated, lawmakers cannot accomplish this through serial, fabricated, ad hoc procedures. Nor will Congress likely capture it in a single "grand bargain" budget agreement. Sustainable fiscal policy will require an extended commitment to spending control, exercised through a steady and consistent budget process.

Second, budgeting is an essential act of governing. An assertive and vigorous practice of congressional budgeting is a primary means of exercising fundamental constitutional principles: limiting government, fulfilling Congress's policymaking role, reinforcing the balance of powers, and restraining the administrative state. No single act would revitalize Congress more as a governing institution than a restoration of meaningful congressional budgeting.

Considering the badly degraded condition of congressional budget practices, discrete, incremental changes may no longer suffice to resuscitate the process. A complete overhaul and a new budget act are probably necessary. In the meantime, given the current legislative climate, lawmakers may choose modest changes as first steps toward a more complete reform. Either way, analyzing a sampling of these selected proposals can clarify the essential and necessary elements of a restructured process.

This review does not intend to endorse or reject any of the options presented. It seeks to demonstrate a *way of looking at* the budget process rather than trying to pass judgment on specific proposals. It aims to encourage a thoughtful evaluation, reflecting assessments by a range of budget experts and offering additional insights where they arise. Legislators can always adopt minor pragmatic fixes to untangle occasional snags in budgeting. They should take great care, however, with larger, more permanent changes—especially those that can affect the constitutional fabric itself.

Although a few of the proposals explored might seem highly ambitious to some, this review focuses

on those with a reasonable possibility of implementation under existing legislative conditions. Hence, the discussion does not explore more radical ideas. In addition, because this is a study of budget *process* proposals, it does not address certain worthy ideas—such as a balanced budget constitutional amendment—that speak mainly to the ultimate goals of fiscal policy.

This review divides budget process proposals into four classes:

- **Institutional changes.** Some initial proposals would alter the structure or composition of the congressional committees that deal with budget-related issues. The aim is both to strengthen budget practices and to streamline legislative procedures.
- **Structural and procedural changes.** These proposals deal with the design of the budget resolution and the character and duration of budget-related legislation.
- **Enhanced budget disciplines.** A number of recommended reforms aim to strengthen the ability of the budget process to limit spending or to prevent avoidance of budget rules and restrictions.
- **Technical and estimating issues.** To be a viable instrument for governing, the budget must also be valid. Effective budgeting depends on the soundness of underlying estimates and the ways in which the budgetary effects of legislative proposals are presented. Although highly technical, these practices are a vital component of the budget process.

## What Caused the Current Breakdown in the Budget Process?

Symptoms of the recent years' budget breakdown are widespread, as detailed in the previous discussion paper on the subject.<sup>1</sup> To summarize: Lawmakers no longer miss budget deadlines; they breach them deliberately and regularly, obliterating any notion of a fiscal year as the government runs on a series of temporary spending measures. Omnibus legislation has replaced the separate appropriations

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1. Patrick Louis Knudsen, "Why Congress Needs a New Budget Process," Heritage Foundation Center for Policy Innovation *Discussion Paper* No. 14, December 5, 2013, <http://www.heritage.org/research/reports/2013/12/why-congress-needs-a-new-budget-process>.

required under normal procedures, and these massive bills typically offer few policy changes, largely maintaining the status quo. The approaching entitlement crisis looms ever closer yet continues to go unaddressed. Even the budget resolution itself—a key instrument of the congressional process—has become optional and nearly irrelevant. Since fiscal year (FY) 1999, Congress has failed to adopt a resolution on eight occasions.<sup>2</sup>

The reasons for this neglect are numerous and have been the subject of extensive analyses. One lies with lawmakers themselves, who must accept ultimate accountability for the breakdown in budgeting. No legislative process can work unless legislators want it to; the failure to budget is the product of a deliberate choice.

That said, little in the process truly compels Congress to follow through on the procedures described in the Congressional Budget Act. The act contains loopholes allowing lawmakers to sidestep or manipulate major steps in the process, and budget disciplines are easily waived as well.

To be sure, budgeting has always been a complicated, difficult process, and the Budget Act made it more so. The act layered additional components onto existing procedures and committee structures, making the process even more time-consuming. The amendments adopted in subsequent years—such as the Balanced Budget and Emergency Deficit Control Act of 1985 and the Budget Enforcement Act of 1990—added more complexity. Meanwhile, the growth of hard-to-control entitlement spending as a share of total outlays limited flexibility in budgetary choices.

As the outlook for spending, deficits, and debt has worsened, lawmakers have become increasingly discouraged from facing them through regular budget practices. More and more, they have manufactured procedures to move them past some near-term impasse without any resolution of longer-term challenges.

## Criteria for a New Process

America's Founders had little sense of formalized budget practices, but they knew that control over spending and taxation was one of the most powerful instruments of government—one that should rest with the legislature. As James Madison wrote: "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."<sup>3</sup>

Nearly two decades ago, the renowned political scientist Aaron B. Wildavsky noted how budget matters had come to dominate nearly every aspect of government:

The importance of conflicts over the size and distribution of the budget—failure to pass a budget on time or at all has become a sign of inability to govern—testifies to the overwhelming importance of budgeting. Nowadays the State of the Union and the state of the budget have become essentially equivalent.<sup>4</sup>

With today's budgets approaching \$4 trillion—more than one-fifth of the nation's total economic output—Wildavsky's point is all the more relevant. Clearly, a stable and regular practice of budgeting is essential to effective governing.

The guidelines that initially tend to drive proposals for repairing the budget process focus on practical matters, as the preceding paper noted.<sup>5</sup> They seek to make budgeting more efficient, more manageable, and more disciplined. This is perfectly understandable and appropriate. A budget process, however technically precise or philosophically satisfying, is pointless if Congress cannot or will not use it or if it fails to improve management of fiscal policy.

Still, these desirable characteristics must be viewed in a broader context that recognizes the

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2. Paul L. Posner et al., "Strengthening the Federal Budget Process," *Memos to National Leaders*, July 11, 2012, p. 18, <http://www.memostoleaders.org/sites/default/files/RevisedBudgetFinal.pdf> (accessed February 6, 2014). The report cited accounts for seven occasions when Congress had failed to pass a budget resolution conference report. Since then, the spending agreement reached in December 2013 (H.J.Res.59) brought the figure to eight because it was not, strictly speaking, a budget resolution, which would take the form of a concurrent resolution, designated H.Con.Res.
  3. *The Federalist*, No. 58.
  4. Aaron B. Wildavsky, *The New Politics of the Budgetary Process*, 3rd ed. (New York: Addison-Wesley Educational Publishers Inc., 1997), p. xxiii.
  5. Knudsen, "Why Congress Needs a New Budget Process."
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essential role of budgeting in governing. The budget process should strive not merely to accommodate constitutional principles, but to advance them. It should strengthen Congress's role as the policymaking branch of government, just as the Constitution and the 1974 Congressional Budget Act intended. It should ratify the constitutional framework as the fundamental platform for public policy.

Among the considerations for evaluating budget process reforms is how effectively they promote the following aims:

- **Limiting government.** The Constitution provides a framework for a limited government of delegated powers. The practice of budgeting offers a principal means of achieving that aim by limiting spending—one of the best measures of the size and scope of government and of the government's burden on the economy.
- **Fulfilling Congress's constitutional role.** Budgeting, rooted in a distinctive and comprehensive vision of government, is central to Congress's ability to establish national priorities and set a legislative agenda. The budget process should affirm this fundamental role of the legislative branch and arrange spending to align with the public's vision of national priorities.
- **Reinforcing the balance of powers.** Defining congressional priorities also is crucial to preventing the President from unduly dominating the direction of national policy, but it is not enough. The balance of powers is a dynamic equilibrium; it requires Congress to assert its authority, not merely assume it. The budget process should promote Congress's vigorous exercise of the power of the purse.
- **Controlling the administrative state.** Failures in congressional budgeting inevitably lead to policymaking through the bureaucracy, which includes a growing, opaque fourth branch of government shielded from oversight. The budget process should support efforts to curtail this expansion of a domineering administrative state.

Obviously, not all criteria are applicable to every budget reform proposal. Some measures are purely technical, aimed at bringing greater precision to budget estimates and projections. Some proposals intended to strengthen budget disciplines simply seek to make budgeting more effective.

Nevertheless, in pursuing more practical and manageable procedures, lawmakers should remain focused on the fundamental goal: strengthening the practice of budgeting as a principal act of constitutional government.

### **Institutional Changes**

Interestingly, one major challenge to congressional budgeting lies largely outside the budget process in the structure of House and Senate committees. The Budget Committees, created under the Congressional Budget Act of 1974, have always lacked sufficient authority to enforce their spending and tax guidelines. This occurred largely because lawmakers at the time were wary of investing too much power in any one committee. Those concerns likely would remain today.

Second, the Budget Act was "layered on top of an already redundant committee structure," says the Brookings Institution's Alice M. Rivlin, the first director of the Congressional Budget Office (CBO). That structure included a separation of authorizing and appropriating committees, which adds steps to the process of adopting spending bills that implement the budget. This consumes additional time and energy, making it more difficult for lawmakers to meet budget deadlines. "Reforming the budget process," says Rivlin, "will be next to impossible unless Congress is willing to revamp the whole committee structure with respect to activities that impact the budget."<sup>6</sup>

Some see a need to streamline the legislative process more broadly. For instance, political scientist Steven M. Teles of Johns Hopkins University contends that excessive complexity is a feature of legislative procedures generally and argues for stripping away or reducing "extra-constitutional veto points" in the system, such as the Senate's filibuster.<sup>7</sup>

Still, reformers should perhaps resist an excessive zeal for mere efficiency. Alexander Hamilton warned:

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6. Alice M. Rivlin, "Rescuing the Budget Process," testimony before the Committee on the Budget, U.S. House of Representatives, September 21, 2011, [http://budget.house.gov/uploadedfiles/rivlin\\_testimony9212011.pdf](http://budget.house.gov/uploadedfiles/rivlin_testimony9212011.pdf) (accessed February 6, 2014).

7. Steven M. Teles, "Kludgeocracy in America," *National Affairs*, No. 17 (Fall 2013), <http://www.nationalaffairs.com/publications/detail/kludgeocracy-in-america> (accessed February 6, 2014).

In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarrings of parties in that department of the government, although they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority.<sup>8</sup>

In any case, changing committee structures would be far from easy; many Capitol Hill veterans call it plainly impossible. It would meet stiff opposition from lawmakers who jealously protect jurisdictions and resist changing existing centers of power. Even if that resistance could be overcome, choosing among the possible committee arrangements would entail extensive and highly consequential negotiation. Nevertheless, the discussion of congressional organization further reveals the intimate connection between budgeting and governing.

**Proposal: Strengthen the Budget Committees.** An often discussed proposal is to enhance the authority of the House and Senate Budget Committees. The Peterson–Pew Commission, for one, has urged “including House and Senate leaders and the chairs and ranking members of both the appropriations and revenue committees and other major authorizing committees.”<sup>9</sup>

This step arguably would strengthen the budget resolution because the measure would embrace the priorities of congressional leaders and encourage their desire to uphold it. That could reinforce the resolution’s role as a comprehensive statement of Congress’s priorities and fiscal policy and as an instrument for managing the legislative agenda. In this scenario, the Budget Committees might include top leaders of the House and Senate, which would grant the panels greater authority in negotiating across Capitol Hill or with the Administration.

On the other hand, this approach risks merely filling the budget with all the desires of congressional committees and establishment leaders, making it simply a vehicle for higher spending. It would need the safeguard of a strong consensus or norm limiting overall spending. If that were accomplished, budget committees constituted in this way could become

more determinate forums in which committee leaders made the necessary trade-offs to meet fiscal goals.

An alternative design would create a Joint Budget Committee in place of the separate House and Senate panels. This variant might facilitate swifter completion of a budget resolution, especially if the House and Senate were controlled by the same party. In a divided Congress, however, a joint committee would have no better chance of agreeing on a budget resolution than exists under the current arrangement. It would also deprive each chamber of an opportunity to express, through its budget resolution, its own priorities and fiscal policy.

It seems likely that strengthening the Budget Committees would result in stronger, more enforceable budget resolutions. The question is whether proponents could overcome lawmakers’ institutional resistance to placing such power and influence in any one committee—or whether it would even be prudent to do so.

**Proposal: Restructure and Combine Authorizing and Appropriations Committees.** The first attempt at a formal congressional budget process occurred in a much broader measure, the Legislative Reform Act of 1946. Among other changes, the sprawling legislation sharply reduced the number of House and Senate committees, imposed regulations on lobbyists, expanded the Legislative Reference Service (now the Congressional Research Service), and raised congressional pay. The bill even contained a section on remodeling caucus rooms and restaurants. The congressional budget process comprised just two paragraphs of the bill. Not surprisingly, those procedures failed, and Congress abandoned them in 1949.<sup>10</sup>

Nevertheless, the example might offer a lesson for contemporary budget reform. Most lawmakers consider budget process reform an arcane, technical subject that they would rather avoid. If it were couched in legislation aimed at restructuring and revitalizing Congress itself, however, a new budget process might receive more attention. Budget reform could be seen as congressional reform, and vice versa.

Even before the 1974 Budget Act was adopted, the Brookings Institution’s Dr. Rivlin proposed stream-

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8. *The Federalist*, No. 70.

9. Peterson–Pew Commission on Budget Reform, “Getting Back in the Black,” November 2010, <http://budgetreform.org/document/getting-back-black> (accessed February 6, 2014).

10. Joel Havemann, *Congress and the Budget* (Bloomington, IN: Indiana University Press, 1978), pp. 21–23.



lining and restructuring committees in alignment with certain policy and budgetary categories. “The program committees (e.g., Education and Labor, Armed Services) would both authorize and appropriate funds for the range of programs under their jurisdiction.”<sup>11</sup> A similar option would realign these combined committees with the functional categories of the budget resolution. “These committees could take general responsibility for performance in a mission or functional area, including review of related tax expenditures and effective program implementation,” says a report sponsored by the National Academy of Public Administration and the American Society for Public Administration.<sup>12</sup>

The complexities in current procedures undoubtedly have contributed to the more frequently missed deadlines and growing frustration in congressional budgeting. They also have promoted the much-increased use of omnibus spending bills and continuing resolutions. Such measures typically are negotiated by a handful of leaders, depriving other lawmakers of the opportunity to deliberate over these bills and amend them.

Reducing the number of steps in the process would surely make it more manageable. On the other hand, some of the current complexities are rooted in long-standing and significant budget practices. For instance, budget expert Allen Schick of the University of Maryland notes:

Nineteenth-century debates in the House and Senate indicate two reasons for separating authorizations and appropriations. One was a concern that conflict over legislation would impede the flow of funds to federal agencies. The other was that the urgency of funding ongoing agencies would impel Congress to enact ill-considered legislation in appropriations bills. Both concerns have contemporary relevance for Congress. Conflict over legislation, not disputes over the amount that should be made available, is the primary cause of protracted delay in enacting appropriations. Moreover, many legislative provisions that probably would not be enacted on their own are enacted in appropriations bills.<sup>13</sup>

Further, the decentralized nature of Congress presumably creates more opportunities for rank-and-file legislators to debate policy choices, which they would not want to sacrifice. Making Congress more efficient would need to be balanced against the important role of thorough policy deliberation.

All of this is moot, of course, if Congress cannot overcome the inertia that prevents significant institutional change. Nevertheless, these considerations reveal an important weakness in budgeting that lies in the structure of Congress, not in the budget process. Reforming one may well entail reforming both.

### **Structural and Procedural Changes**

For most of the country’s early history, Congress exercised its power of the purse in an entirely piecemeal fashion. Customarily, department and agency heads simply took their budget requests to the appropriate committees of Congress, with no overall coordination, and the committees determined how much funding to provide.

In 1921, largely on the urging of Progressive reformers, Congress adopted the first formalized budget procedure. The Budget and Accounting Act that year created a consolidated executive process modeled largely on Great Britain’s and also established the Administration’s Bureau of the Budget (now the Office of Management and Budget). For roughly the next 50 years, the President’s budget was the only comprehensive fiscal plan in the federal government; Congress continued to act only on separate spending and tax bills.

In a sense, the 1974 Congressional Budget Act reversed this construct. It created the congressional budget resolution, a unique measure that would account for total government spending, taxes, deficits, and debt. It was and still is the only legislative vehicle that views the government comprehensively. It provides coherence to the individual spending and tax measures that lawmakers consider over the course of the year. The President still presents his own budget proposal, but the congressional resolution serves as the overall fiscal blueprint. Now the President’s fiscal actions are piecemeal—his signature or veto of the separate budget-related bills Congress sends him.

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11. Alice M. Rivlin, testimony before the Select Committee on Committees, U.S. House of Representatives, June 1973.

12. Posner et al., “Strengthening the Federal Budget Process,” p. 21.

13. Allen Schick, *The Federal Budget: Politics, Policy, Process*, 3rd ed. (Washington: Brookings Institution Press, 2007), pp. 193–194.

Notwithstanding this important principle, the budget resolution has proved nettlesome to many lawmakers. Some have complained that the measure, like the Budget Committees themselves, lacks sufficient strength to ensure that its spending and tax levels are followed. Others contend the resolution's structure makes it difficult to understand and enforce; many have problems tracking how it proposes to allocate resources among government functions and congressional committees. Several proposed reforms aim at addressing these concerns.

Beyond this, many argue that the budget calendar is too tight to complete the necessary steps on time, leading to routinely missed deadlines. Reformers have offered a series of options to address these and other procedural problems.

**Proposal: Make the Budget a Joint Resolution.** After the 1990 Andrews Air Force Base summit that created the Budget Enforcement Act, some budget reformers sought a mechanism for institutionalizing such negotiations between the President and Congress.<sup>14</sup> One option would convert the budget blueprint from a *concurrent* resolution, which requires no action by the President, to a *joint* resolution, subject to the President's signature or veto.<sup>15</sup>

Proponents argue that this revision would strengthen the budget by giving its spending levels the force of law, which they lack now. In addition, advocates say it would create a forum for the active participation of both lawmakers and the President in developing the budget.<sup>16</sup> This might help reduce friction later and expedite the enactment of appropriations bills and other budget-related measures. Most such proposals provide for a backup congressional budget plan if Congress and the President failed to agree on a joint resolution.

Of course, whether Congress and the President concur on anything depends almost entirely on whether they want to. Without that desire, no process will compel agreement; with it, no new institu-

tionalized procedure is necessary, as demonstrated by the 1997 balanced budget agreement.

Beyond that, critics cite important drawbacks to a joint budget resolution. In the long run, some say, the procedure might only further complicate an already complex and time-consuming process while making it no more likely to produce early agreements. Former CBO Director Rudolph G. Penner notes:

[I]t would be impractical to reach an agreement between the president and the two houses of Congress early in the year... Congress has had problems reaching an agreement itself. Finding an agreement with the president would probably involve a protracted bargaining session that would take far too much time.<sup>17</sup>

Moreover, to obtain consensus, the joint resolution would probably need to be drawn so broadly—consisting of only a few top-line numbers—as to be no budget at all. It would deprive the resolution of its defining characteristics expressed through the allocation of resources among the government's major activities, depleting its role in asserting national priorities and stating a policy direction. The limited structure also would leave many particular spending choices to be debated when individual bills were considered. Resolving these issues between Congress and the White House might well take as much time as before.

A more fundamental concern is that this executive-legislative budget is ill-suited to the constitutional framework of the U.S. government. "It is ideal for a parliamentary system," says Paul L. Posner, a budget and legislative expert at George Mason University. "In fact, it resembles a system that is used in the Netherlands, where the coalition of parties that comes to power has a four-year agreement including the adoption of overarching fiscal policy goals." In America's system of separated powers, however, the joint reso-

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14. Paul L. Posner, "Strengthening the Congressional Budget Process: The Role of Process Reforms," testimony before the Committee on the Budget, U.S. Senate, October 12, 2011, [http://www.budget.senate.gov/democratic/index.cfm/files/serve?File\\_id=cdde09ec-6dfa-48e7-9949-3071d08154c4](http://www.budget.senate.gov/democratic/index.cfm/files/serve?File_id=cdde09ec-6dfa-48e7-9949-3071d08154c4) (accessed February 6, 2014).

15. A recent version of this proposal is the Legally Binding Budget Act (H.R. 1868), introduced by Representative Diane L. Black (R-TN).

16. See Alice M. Rivlin, "Reforming the Budget: How to Fix the Congressional Budget Process," The Brookings Institution, February 4, 2014, <http://www.brookings.edu/blogs/fixgov/posts/2014/02/04-budget-reform-congressional-budget-process-rivlin> (accessed March 14, 2014).

17. Rudolph G. Penner, testimony before the Committee on the Budget, U.S. House of Representatives, September 21, 2011, p. 3, <http://www.urban.org/publications/901451.html> (accessed February 6, 2014).

lution approach “deprives Congress of its own unique policymaking capacity to budget by inviting the President in at the front end.”<sup>18</sup> This would shift undue influence to the executive, contends Philip G. Joyce of the University of Maryland School of Public Policy:

[R]equiring the budget resolution to have the President’s signature tilts the balance of budgetary power too far toward the President. For better or worse (and I think better) the Budget Act of 1974 made the Congress a more equal player in the budget process. The Congress is NOT an equal player if the President can propose a budget, and subsequently veto the budget resolution if it is not consistent with his own budget.... [A]dvocates of more Presidential power would be wise to contemplate the implications of increased Presidential power being exercised not by an executive whose policies they embrace—but one whose policies they strongly oppose.<sup>19</sup>

This is not an abstract argument. “[T]he preservation of liberty requires that the three great departments of power should be separate and distinct,” Madison wrote.<sup>20</sup> The government’s branches would necessarily interact, he acknowledged, but their essential powers—legislative, executive, and judicial—had to be exclusive.<sup>21</sup> Madison further asserted that “a mere demarcation on parchment” was inadequate to prevent encroachments of one branch upon another.<sup>22</sup> The separation had to be maintained by “so contriving the interior structure of the government as that its several constituent parts may, by the mutual relations, be the means of keeping each other in their proper places.... Ambition must be made to counteract ambition.”<sup>23</sup>

The result is a dynamic equilibrium in which the branches keep one another in check. Writes Matthew C. Spalding of Hillsdale College:

[T]he Founders not only divided power, but also set it against itself. The separation of powers, along with the further provisions for checks and balances, creates a dynamism within the workings of government that uses the interests and incentives of those in government to enforce constitutional limits beyond their mere statement.<sup>24</sup>

The purely congressional character of the budget resolution, a principal instrument of policy formulation, is consistent with this concept. The President’s signature is required to enact the spending and tax bills that implement the budget, and the Administration is responsible for executing those measures. Establishing the broad policy agenda reflected by the budget resolution is primarily the legislature’s job, and as Madison stated: “In republican government, the legislative authority necessarily predominates.”<sup>25</sup> Policymakers should reflect carefully on such considerations in evaluating the proposed joint budget resolution.

**Proposal: Restructure the Budget Resolution.** Members of Congress have long been vexed by the classifications in the budget resolution known as budget “functions.” Essentially, these categories reflect the budget’s recommended allocation of spending among broad areas of government activities, such as national defense, agriculture, transportation, and so on.

Lawmakers typically complain that the functional breakdown forces them into extensive debates over spending levels that are only advisory. Some therefore propose collapsing the budget into a few major components they consider to be more meaningful: discretionary spending, mandatory spending, net interest, and one or two others. These mechanical classifications would more closely reflect the enforceable levels of the resolution, but they would also remove from the budget any definition of pri-

18. Posner, “Strengthening the Congressional Budget Process.”

19. Philip G. Joyce, testimony before the Committee on the Budget, U.S. Senate, October 12, 2011, pp. 3–4, [http://www.budget.senate.gov/democratic/index.cfm/files/serve?File\\_id=5e681ef0-fe74-4ed2-82ac-e4acbe38420c](http://www.budget.senate.gov/democratic/index.cfm/files/serve?File_id=5e681ef0-fe74-4ed2-82ac-e4acbe38420c) (accessed February 6, 2014).

20. *The Federalist*, No. 47.

21. See *The Federalist*, Nos. 47, 48, and 51.

22. *The Federalist*, No. 48.

23. *The Federalist*, No. 51.

24. Matthew Spalding, *A Citizen’s Introduction to the Declaration of Independence and the Constitution* (Washington: The Heritage Foundation, 2010), p. 44.

25. *The Federalist*, No. 51.



orities, eliminating its agenda-setting character. Further, although the function levels are nonbinding, they are cross-walked into committees' allocations of spending authority, which are enforceable by points of order.

Another proposal would recast the budget functions to align them with congressional committees, supposedly clarifying the budget's distribution of resources. This notion rests, however, on a misunderstanding of what the budget functions represent:

A function encompasses activities with similar purposes, emphasizing what the Federal Government seeks to accomplish rather than the means of accomplishment, the objects purchased, the clientele or geographic area served [with exceptions for community development, Medicare, Social Security, and veterans' benefits], or the Federal agency conducting the activity [except national defense military activities].<sup>26</sup>

In other words, the functions are meant to transcend committee jurisdictions, reflecting not *who* is spending the money, but what it is being *spent on*.

Further, in many cases, aligning functions with committees would obscure the distribution of resources. For instance, the House Ways and Means Committee has broad jurisdiction that includes Social Security, Medicare, and several welfare programs. The Energy and Commerce Committee has Medicaid and part of Medicare, telecommunications, energy, manufacturing, public health, the environment, and several others. The Committee on Agriculture handles food stamps as well as farm subsidy programs. Such programmatic definition would be lost in the committee-based arrangement of budget functions. The change also would demand the arduous process of matching committee jurisdictions between the House and Senate.

An alternative concept would, in effect, reverse this approach and restructure committees to align with a modified arrangement of major budget categories, similar to the Rivlin and Posner proposals described above. In this system, a single committee might be responsible for all welfare activities;

another would deal with health programs. This would reduce the number of spending bills Congress would have to pass and would reinforce the connection between budgeting and governing.

Yet another possibility would be to realign the budget functions according to a governing philosophy—specifically, federalism. The budget resolution would be constructed to distinguish activities that are clearly federal government priorities, such as national defense or international affairs, from those that are driven more by states or localities. The latter group would include annually appropriated funds for transportation, education, community and regional development, and the like. One other grouping would pull together all domestic entitlement spending—Medicare, Medicaid, Social Security, welfare entitlements, and so on—so that the budget resolution would more clearly reflect how much federal spending comes from these programs.

This arrangement would doubtless raise its own set of complications. Nevertheless, it could help promote a reconsideration of which levels of government are better suited to various government activities. In the long run, such a reevaluation will be necessary if Congress is to get federal spending under control.

The current structure of budget functions has antecedents dating back roughly 200 years but is basically a modification from the budget for 1948—some 65 years ago.<sup>27</sup> Surely, an update of these classifications is warranted, and restructuring the budget resolution could contribute to a more efficient budget process. More important, it could promote a reassessment of government priorities, including which levels of government are better suited to handle various priorities. The key consideration with all of these options is whether they would strengthen the budget resolution as a defining instrument for governing—its original intent under the Budget Act.

**Proposal: Adopt a Two-Year Budget Cycle.** As noted above, the many steps in the current budget process, if followed as designed, consume a great deal of lawmakers' time and energy. For instance, if the procedure were followed today, each chamber would vote on 12 separate appropriations bills, with

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26. U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2015: Analytical Perspectives* (Washington: U.S. Government Printing Office, 2014), p. 94.

27. U.S. General Accounting Office, *Budget Function Classifications: Origins, Trends, and Implications for Current Uses*, February 1998, <http://www.gao.gov/products/AIMD-98-67> (accessed March 15, 2014).

lengthy debate on each, and then again on each of the 12 conference reports on those bills. Add to that the development and debate of major authorization measures, such as agriculture or transportation legislation. All of this aggravates legislators' frustration with an already difficult process.

In response, many experts have proposed easing the time pressure by shifting to a two-year budget and appropriations cycle.<sup>28</sup> Maya C. MacGuineas, president of the Committee for a Responsible Federal Budget, explains:

The most popular argument in support of such a regime would be the additional time Congress would now have freed up to conduct other business—from additional program review and evaluation to a more careful look at our budget and budget programs currently on auto-pilot. Fixing our fiscal problems will require going through our spending and tax policies with a fine-toothed comb and determining what works, what could work better, and what does not work. If given additional time, Congress would have more ability to conduct this type of needed oversight.<sup>29</sup>

A two-year cycle also would give agency heads in the Administration more time to plan their budgets and more stability in executing them, proponents say.

Once again, however, critics have challenged this reasoning. Some doubt whether this procedural change would really promote oversight as advertised. Argues Professor Joyce:

[A]n increase in oversight under biennial budgeting would occur only if the current lack of oversight results from a lack of time. Even if Members of Congress had more time to do oversight, they would not be likely to do more of it simply because they do not have any incentives to spend precious time understanding more about how federal programs work in great detail.<sup>30</sup>

Further, the expectation of added time for oversight assumes that Congress will complete two-year appropriations in the time in which it now regularly fails to pass one-year bills. Far more likely, Parkinson's Law would take hold, and the appropriations process would expand to fill the entire two years available.

Critics also contend that a two-year cycle raises significant estimating challenges that could threaten the stability of budgeting. Accurately projecting the budget even one year in advance is difficult enough. Two-year estimates would be even less reliable. Says Joyce:

[T]he federal government has a rather checkered history of budget forecasting. Producing a budget every two years would increase the probability that budgets would be based on erroneous information, and would therefore need to be redone. The biennial process may degenerate into an annual process, given the uncertainties associated with budgeting for a \$4 trillion enterprise.<sup>31</sup>

Designers of the 1974 Congressional Budget Act recognized these uncertainties, so their process originally called for two budget resolutions each year. The first, adopted in the spring, would establish nonbinding target levels for spending and revenue. The second, to be considered just after Labor Day, would adjust for any economic or legislative changes that had taken place during the year. The second resolution also could set in motion a fast-track "reconciliation" procedure to drive any program changes needed to realign committee spending with the now-binding resolution levels.<sup>32</sup>

Coupled with the normal estimating challenges, the potential for unforeseen events requiring supplemental spending would double under biennial budgeting. This would risk depleting the budget resolution as a vehicle for defining either public policy or fiscal discipline and would risk institutionalizing the spend-as-you-go practices of recent years. Further, if Congress failed to pass a budget resolution for a given

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28. See the Biennial Budgeting and Enhanced Oversight Act, H.R. 1869, introduced by Representative Reid J. Ribble (R-WI).

29. Maya C. MacGuineas, testimony before the Committee on Rules, U.S. House of Representatives, January 24, 2012, <http://www.gpo.gov/fdsys/pkg/CHRG-112hrg72889/html/CHRG-112hrg72889.htm> (accessed February 6, 2014).

30. Philip G. Joyce, testimony before the Committee on the Budget, U.S. House of Representatives, September 22, 2011, p. 10, [http://budget.house.gov/uploadedfiles/joyce\\_testimony9222011.pdf](http://budget.house.gov/uploadedfiles/joyce_testimony9222011.pdf) (accessed February 6, 2014).

31. *Ibid.*

32. See Havemann, *Congress and the Budget*, pp. 35–37.

biennium, it could quickly find itself in a quadrennial cycle—tantamount to no meaningful budget at all.

A more fundamental question is whether two-year cycles actually would improve the practice of budgeting. Says former CBO Director Penner:

I see budgeting as an iterative process in which we are constantly groping for a better allocation of resources. It is an extremely complicated process that we never get quite right and it is useful to return to the problem at least once a year.<sup>33</sup>

**Proposal: Initiate Multiyear Budgeting.** Even more ambitious is the notion of establishing budget frameworks of longer duration (e.g., 10 years at a time or more) especially for “entitlement” or “mandatory” programs that are not part of the annual budget process, such as Medicare and Social Security. MacGuineas explains:

Right now the country needs a fiscal plan to get us to a sustainable debt level with the debt on a declining path relative to the economy. Such a plan will probably need to span a full decade, which is a reasonable amount of time to make progress on reducing the debt to around 65 percent of GDP [gross domestic product]—though beyond that, we need to continue to make changes to bring it back closer to its historical level of below 40 percent. Ideally, we would put such a plan in place immediately and allow many of the changes to phase-in more gradually both to allow people to adjust as needed and to allow the economy to continue to recover.<sup>34</sup>

The need is especially acute because entitlement spending has grown rapidly in recent decades, claiming an increasing share of the budget. When the Budget Act was adopted in 1974, net programmatic mandatory outlays (excluding interest) accounted for some 41 percent of total spending, and discretionary outlays were about 51 percent. Today, entitlement

spending is nearly 62 percent of the budget, while appropriations have fallen to about 32 percent.<sup>35</sup>

The automatic growth of entitlements increasingly limits the extent to which policymakers can determine priorities across all of the government’s activities. This also undermines the constitutional aim of limiting government by limiting spending, because a major portion of spending is shielded from regular disciplines:

[T]he allocation of limited resources across the full spectrum of national priorities—including the rapidly growing entitlement programs—is rarely addressed. The president and Congress do not have to decide the relative importance of supporting retirement income or medical care for the elderly versus investing in education, infrastructure, and research or meeting national defense or homeland security needs.<sup>36</sup>

The main problem with entitlements lies in their construction rather than in their goals. Whereas discretionary funds are appropriated annually and Congress expressly determines the amounts, entitlements operate on what are effectively permanent authorizations; they spend whatever is needed to meet the demand based on the legal claims to service or funds that they create. In effect, they are “autopilot spending.” By their very design, entitlements are difficult to restrain because there is no limit on their total outlays, and their spending levels depend largely on factors outside of Congress’s control, such as inflation, caseloads, and the changing costs of services.

The Peterson–Pew Commission on Budget Reform has recommended that the President and Congress shift to multiyear budgets rather than the current focus on just the next fiscal year.<sup>37</sup> Even that, however, might not be enough. The entitlement problem is projected to worsen with each passing year, increasing deficits and crowding out other programs. A group of former CBO directors and other budget experts put it this way:

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33. Penner, testimony before the House Committee on the Budget, p. 7.

34. MacGuineas, testimony before the House Committee on Rules.

35. U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2015: Historical Tables* (Washington: U.S. Government Printing Office, 2014 ), pp. 154–155, Table 8.3.

36. Brookings–Heritage Fiscal Seminar, “Taking Back Our Fiscal Future,” The Heritage Foundation and The Brookings Institution, April 2008, p. 5, <http://www.heritage.org/Research/Budget/upload/takingbackourfiscalfuture.pdf> (accessed February 6, 2014).

37. Peterson–Pew Commission on Budget Reform, “Getting Back in the Black.”

[O]ver the coming decades, maintaining current policy in the three big entitlement programs—Social Security, Medicare, and Medicaid—will drive federal spending up much faster than revenues, opening up a widening gap between the two. The rapid automatic growth in these programs is already absorbing more and more resources that could be allocated to other priorities. If present trends continue, the nation’s deficit will reach unmanageable proportions, other vital public needs will be squeezed, and/or taxes will have to rise continuously to levels that could restrict economic growth.<sup>38</sup>

The group recommends a distinct form of multi-year budgeting with explicit budget ceilings for entitlements, especially Medicare, Medicaid, and Social Security. This would help to limit their growth in future decades and promote continuing reassessment of the programs:

The three major entitlement programs should be budgeted for longer periods (for example, 30 years) but be subjected to review every five years. These five-year reviews would allow reconsideration of the trade-offs between entitlement spending and other purposes and might cause adjustment in benefits, premiums, taxes, or all three.<sup>39</sup>

Placing these programs on specific budget paths would largely end the favored treatment that they receive as a result of their autopilot construction and the lack of regular oversight. It would constitute a major step toward restoring a comprehensive practice of budgeting, one that subjects all programs to roughly equivalent disciplines. It also would reinforce the constitutional aim of using budgeting as a means of limiting government.

Clearly, taking a longer view would promote greater fiscal stability and spending control, partly because it would tend to deter entitlement expansions that seem manageable in the near term but become unsustainable later. Still, it would not preclude the need for a mechanism or trigger to insti-

tute periodic budget adjustments along the way—perhaps every year or two—if only to stay on track. Moreover, maintaining the commitment to long-term discipline would remain necessary. MacGuineas, a member of the group calling for the reform, puts it this way:

[I]n order to be credible, there has to be a real commitment to sticking to the plan in subsequent years.... [T]he policy then should be to assume that ten-year plan remains in place for the decade, though with enough flexibility to make necessary changes along the way to account for external changes that arise without derailing the overall glide path to an improved fiscal situation.<sup>40</sup>

Such a commitment has not been a hallmark of past budget agreements. The year after Congress adopted the Budget Control Act (BCA) with its automatic sequestration cuts, many lawmakers hastened to make a case for breaching the limits. The Administration chimed in, predicting that sequestration would have dire consequences that never really materialized. The desire to breach the BCA limits prevailed in Congress’s recent spending agreement, which relaxed the disciplines for FY 2014 and FY 2015.<sup>41</sup>

Some question the capacity to budget for the long term due to the difficulty of generating reliable estimates of spending far into the future. Yet the 30-year budget idea does not actually require this degree of certainty. It basically says that, given other priorities, Congress would set a budget based on its best guess of the amount expected to meet the goals of specific entitlement programs. The budget amounts would be the firm default levels, replacing the lack of limits on today’s entitlements. Periodic review based on actual spending could adjust for changes in priorities, economic conditions, and the like. Thus, future Congresses could explicitly change the long-term budget. In other words, the point is to establish actual budget goals for these programs rather than concede their inexorable growth.

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38. Brookings–Heritage Fiscal Seminar, “Taking Back Our Fiscal Future,” p. 3.

39. *Ibid.*, p. 6.

40. MacGuineas, testimony before the House Committee on Rules.

41. See Congressional Budget Office, “Cost Estimate for the Bipartisan Budget Act of 2013,” December 11, 2013, <http://www.cbo.gov/publication/44964> (accessed March 17, 2014).

**Proposal: Limit Continuing Resolutions.** Continuing resolutions (CRs) once were a reluctant admission of congressional failure: lawmakers' inability to complete all of the annual appropriations bills by the start of the fiscal year. Although these stopgap measures were frequently employed, they were seen as a fallback, a necessary vice. Today, they have become habitual and often even intentional. Congress frequently passes numerous short-term CRs near the end of the calendar year and then piles them all into a massive omnibus measure.

For FY 2013, lawmakers agreed to a six-month CR, hoping the congressional and presidential elections of November 2012 would clarify budget priorities. That expectation went unfulfilled, so in March 2013, Congress simply passed another CR for the balance of the year.

CRs are aimed at preventing some government operations from shutting down due to a lapse of appropriations. If written tightly—that is, at or near the prior year's authorized levels without significant increases—they can actually help to limit or focus spending. Nevertheless, they reflect an abdication of Congress's duty to assert priorities and to budget in a timely fashion.

One proposed CR reform would create an automatic continuing resolution that would take effect in the event of a lapse of appropriations. The aim is mainly to eliminate the risk of government shutdowns, which lead to careless budgeting in a crisis atmosphere. Proponents also argue that this reform would reduce the instability of agencies' funding streams under CRs, which inhibits their planning abilities. Critics note, however, that an automatic CR might merely institutionalize congressional incompetence, further obliterate the fiscal year, and in effect put all spending on autopilot.

An alternative proposal would prohibit the consideration of any appropriations bill that does not provide at least a full year of funding. The rule could be waived only by a three-fourths majority in both houses. Proponents acknowledge that this idea could risk more government shutdowns if budgetary gridlock prevailed. On the other hand, that very threat might encourage lawmakers toward more orderly budgeting. In any case, the proposal would discourage the practice of serial CRs, which create

more problems for government agencies and recipients of government funds than do brief shutdowns.<sup>42</sup>

Congress also might consider moving in the opposite direction, increasing the urgency to pass its regular spending bills on time. CRs could be tightly limited in spending (e.g., no more than a freeze level, or perhaps less) and duration (perhaps no more than two weeks or a month). This way, legislators would need to remain at the task of completing appropriations until all were finished.

Taking it a step further, lawmakers could completely eliminate the option of continuing resolutions or omnibus bills, forcing Congress to complete its appropriations on time and under the regular order. The potential political and programmatic risks would be high. Still, lawmakers adopt CRs and massive omnibus bills because they can. The very opportunity of these optional procedures is an invitation to exploit them. Congress has demonstrated an ability to complete necessary legislative work if there is no other choice.

In any event, the main aim should be to promote systematic, regular appropriations. They are an ideal mechanism for advancing congressional priorities, distinct from the executive, through the allocation of finite resources. When used properly, these measures are a principal legislative means of restraining the executive branch and restoring the constitutional balance of powers.

**Proposal: Eliminate Separate Debt Limit Votes.** With the collapse of the regular budget process in recent years, congressional Republicans have sought leverage for entitlement reforms and other budget constraints by threatening to block increases in the government's borrowing authority. In 2011 and 2013, their confrontations with the President and congressional Democrats nearly pushed the government beyond the debt ceiling. This led some to warn of a catastrophic default on the government's debt, although others argued that default was not a necessary outcome. In the end, lawmakers chose to raise the limit before reaching that point.

These clashes have led a number of analysts to propose eliminating separate votes on debt ceiling increases. Some favor eliminating the debt ceiling itself, "arguing that other controls provided by the modern congressional budget process established

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42. Posner et al., "Strengthening the Federal Budget Process," p. 21.



in 1974 have superseded the debt limit, and that the limit does little to alter spending and revenue policies that determine the size of the federal deficit.<sup>43</sup> Others contend that the current debt ceiling vote is merely an invitation to budgetary brinksmanship, especially because it occurs after the debt has already accumulated:

This is akin to having a separate vote on whether or not to pay the nation's credit card bill after the spending has occurred. The debt ceiling is anachronistic. It may have made sense in 1918 to help Congress retreat from its prior role in pre-approving each Treasury debt issuance. But, in a modern global economy, the debt ceiling serves no purpose and merely invites fiscal hostage taking.<sup>44</sup>

Such critics say that debt ceiling adjustments "should either be automatic or be made part of the annual budget process, ensuring that the government will meet its financial obligations. One option is to include a debt ceiling adjustment consistent with budget estimates in an annual joint budget resolution."<sup>45</sup>

On the other hand, there are sound reasons for maintaining the limit, which covers both debt held by outside investors—known as "debt held by the public"—and what government has borrowed from its own trust funds:

The debt limit provides Congress with the strings to control the federal purse, allowing Congress to assert its constitutional prerogatives to control spending. The debt limit also imposes a form of fiscal accountability that compels Congress and the President to take visible action to allow further federal borrowing when the federal government spends more than it collects in revenues.<sup>46</sup>

For this reason, advocates of explicit debt limit votes contend that the ceiling should be raised only if Congress attacks the cause of rising debt: excessive government spending. As The Heritage Foundation's David S. Addington puts it: "Relief from the debt limit makes sense only if that relief is an integral part of a plan to drive down spending and borrowing so that the country lives within its means."<sup>47</sup>

The Framers of the Constitution clearly understood the importance of honoring the nation's debt. Article VI begins: "All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation." It was a critical part of the legislature's celebrated "power of the purse," says Addington:

The Framers ... fixed responsibility for the national debt squarely on a single institution: the Congress of the United States.... Under our Constitution, Congress controls by law, directly or by delegation of authority that it can limit or withdraw, whether the United States will have a national debt, what amount it will be, the terms and conditions of the debt, and how and when it will be paid.<sup>48</sup>

As explained by the Committee for a Responsible Federal Budget (CRFB), "The first iteration of the debt ceiling was established in 1917 and set at \$11.5 billion under the Second Liberty Bond Act."<sup>49</sup> The borrowing was intended to help fund U.S. participation in World War I.

Prior to this, Congress was required to approve each issuance of debt separately. The ceiling was enacted to simplify the process and enhance borrowing flexibility. In 1939, Congress created the

43. D. Andrew Austin and Mindy R. Levit, "The Debt Limit: History and Recent Increases," Congressional Research Service *Report for Congress*, October 15, 2013, <http://www.fas.org/sgp/crs/misc/RL31967.pdf> (accessed February 6, 2014).

44. Posner et al., "Strengthening the Federal Budget Process," pp. 19–20.

45. *Ibid.*, p. 21.

46. Austin and Levit, "The Debt Limit: History and Recent Increases."

47. David S. Addington, "Don't Raise the Debt Limit Without Getting Spending Under Control," Heritage Foundation *Backgrounder* No. 2549, April 21, 2011, <http://www.heritage.org/research/reports/2011/04/dont-raise-the-debt-limit-without-getting-spending-under-control>.

48. *Ibid.*

49. Committee for a Responsible Federal Budget, "Q&A: Everything You Should Know About the Debt Ceiling," October 2, 2013, p. 1, [http://crfb.org/sites/default/files/10022013\\_final\\_updated\\_debt\\_ceiling\\_primer\\_0.pdf](http://crfb.org/sites/default/files/10022013_final_updated_debt_ceiling_primer_0.pdf) (accessed February 12, 2014).

first aggregate limit covering nearly all government debt and set it at \$45 billion, about 10 percent above the total debt at that time.<sup>50</sup>

Votes to raise the government's borrowing limit have long been uncomfortable and unpopular with Members of Congress. Hence, in 1979, the House adopted a rule that "provides for the automatic engrossment and transmittal to the Senate of a joint resolution changing the public debt limit, upon the adoption by Congress of the budget resolution." The rule made it possible for House members to endorse a debt limit increase without actually voting on it.<sup>51</sup>

In one sense, raising the ceiling is a matter of maintaining the government's cash flow:

Once the government hits the debt ceiling and exhausts all available extraordinary measures, the government must rely on its remaining cash on hand and incoming receipts to pay all obligations. However, when the federal government is in a period of running annual deficits—as is the case today—incoming revenues to the federal government are insufficient to cover all of the government's obligations, be it salaries for federal civilian employees and the military, utility bills, veterans' benefits, or Social Security payments, to name a few.... Instead of or in addition to failing to meet these obligations, the government could also potentially default on regular interest payments on the debt.<sup>52</sup>

In other words, if the debt ceiling were breached, default would not necessarily happen, but the government would be unable to pay all of its bills and would need to decide which ones deserved priority.

The combination of debt ceiling increases and deficit reduction legislation is not new. "Congress has coupled such increases with other legislative changes on many occasions," notes the CRFB. "In

a number of cases, Congress has attached debt ceiling increases to budget reconciliation legislation and other deficit reduction policies or processes."<sup>53</sup> The CRFB continues:

Indeed, most of the major deficit reduction agreements made since 1980 have been accompanied by a debt ceiling increase. Causality has moved in both directions, though—on some occasions, the debt limit has been used successfully to help prompt deficit reduction; in other instances, Congress has tacked on debt ceiling increases to deficit-reduction efforts.<sup>54</sup>

The CRFB also notes that in nearly all such instances, lawmakers have approved temporary debt ceiling increases when necessary to avoid the risk of default while deficit reduction talks continued.

There is no doubt the federal government must honor its debt: "Paying America's debt when due is a legal obligation, a moral obligation, and—if the government is to continue to be creditworthy—a practical necessity."<sup>55</sup> Breaching the limit—even threatening to do so—may indeed risk profound fiscal and economic consequences, as many warn. These potential hazards argue for a more stable and predictable means of adjusting the ceiling.

It is also important, however, for Congress and the President to face the results of their spending and tax policies. A debt ceiling vote helps to hold them accountable, and eliminating it would almost certainly reduce the pressure on lawmakers to act responsibly. More simply, there is a sound argument for insisting that any debt assumed by the federal government should be subject to explicit and transparent approval by Congress.

### **Enhanced Budget Disciplines**

While the Constitution does not predetermine the proper size and scope of government, it clearly

50. Ibid.

51. Bill Heniff Jr., "Developing Debt-Limit Legislation: The House's 'Gephardt Rule,'" *Congressional Research Service Report for Congress*, July 1, 2008, <http://congressionalresearch.com/RL31913/document.php?study=Developing+Debt-Limit+Legislation+The+Houses+%26quot%3BGephardt+Rule%26quot%3B> (accessed February 6, 2014).

52. Committee for a Responsible Federal Budget, "Q&A: Everything You Should Know About the Debt Ceiling," p. 3.

53. Ibid., p. 4.

54. Ibid. Among the examples the CRFB cites are the Gramm–Rudman–Hollings Act of 1985, the Omnibus Budget Reconciliation Act of 1990, the Omnibus Budget Reconciliation Act of 1993, and the Balanced Budget Act of 1997.

55. Addington, "Don't Raise the Debt Limit Without Getting Spending Under Control."

establishes a framework for limiting government. Writes Spalding: “Liberty is assured not by the anarchy of no government on the one hand or the arbitrary rule of unlimited government on the other, but through a carefully designed and maintained structure of limited constitutional government.”<sup>56</sup> That is the point of delegated and enumerated powers and of the Tenth Amendment’s explicit assertion: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

One of the best means of limiting government is limiting spending. Of all the components of fiscal policy, spending is the best measure of the size and scope of government.<sup>57</sup> It is the root cause of every other fiscal consequence. “In a fundamental sense,” writes Professor Schick, “the federal government is what it spends.”<sup>58</sup>

Therefore, the soundness of spending disciplines and the ability to enforce them are crucial to the exercise of this constitutional authority. Several ideas have been advanced to strengthen these components of the budget process.

**Proposal: No Budget, No Spending Bills.**

Although the budget resolution is the linchpin of congressional budgeting, the budget process lacks sufficient incentives for the House and Senate to agree on the measure. For instance, Section 303 of the Budget Act prohibits the consideration of budget-related legislation in the absence of a budget resolution but then punctures the restriction with gaping loopholes. The House may begin considering annual appropriations bills after May 15 with or without a budget resolution. Further, the prohibition on other spending bills applies only to any measure reported by a committee—a clear invitation for House leaders to bypass the committee system entirely and bring legislation directly to the floor. In the Senate, the potential point of order against considering spending bills without a budget resolution in place can be waived by a simple majority.

The lack of a bicameral budget resolution is more than a technical failing:

The device that was created to give Congress an equal voice in setting overall fiscal policy is increasingly just a hit and miss proposition... This represents not only a failure of Congress to follow its legislative mandate; it also suggests that the budget committees may lack enough power to make adoption of the budget resolution the imperative it was intended to be.<sup>59</sup>

With the two chambers controlled by opposite parties since the 2010 election, Congress has not adopted a budget resolution since April 2009,<sup>60</sup> but a divided Congress has not always been the reason for this neglect. In 1998, the first time Congress failed to adopt a budget resolution, Republicans held majorities in both houses of Congress and enjoyed the prospects of growing budget surpluses following the balanced budget agreement of the previous year. Yet the two chambers had profound differences, partly on how much to cut taxes, and reached no agreement.<sup>61</sup> A similar failure occurred in 2010 with Democratic majorities in both chambers; the House chose not even to bring a budget resolution to the floor rather than spell out the high spending and deficits it would contain.

On these and other occasions, especially in recent years, Congress has found that it can manufacture the means to adopt spending bills without the guidance of a comprehensive budget blueprint. Lawmakers have taken the step of “deeming” discretionary spending levels—even with different levels in the House and Senate—and then resolving the differences at the end of the year, often in massive omnibus spending bills. In this way, they can fabricate procedures to facilitate spending and tax bills as needed. They can make the fiscal year irrelevant by repeatedly using months-long or serial continuing resolutions. In short, little in the budget process compels lawmakers to follow the regular order as written in law.

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56. Spalding, *A Citizen’s Introduction to the Declaration of Independence and the Constitution*, p. 27.

57. See Douglas J. Holtz-Eakin, “The Economic Costs of Long-Term Federal Obligations,” testimony before the Committee on the Budget, U.S. House of Representatives, July 24, 2003, <http://www.cbo.gov/publication/14638> (accessed March 17, 2014).

58. Schick, *The Federal Budget*, p. 2.

59. Posner et al., “Strengthening the Federal Budget Process.”

60. As noted previously, the agreement reached in December 2013 (H.J. Res. 59) was a spending bill, not a concurrent budget resolution. See note 2, *supra*.

61. Schick, *The Federal Budget*, pp. 124–125.

It is an illusion, however, to conclude that these lapses have no consequences. Each year without a budget resolution represents a further delay in addressing the ever-growing problem of entitlement spending. The longer this pattern continues, the larger the problem will become and the more difficult and wrenching its solutions will be. Further, as serious budgeting practices fall into disuse, Congress may become unable to adopt policies that can alter the currently unsustainable fiscal course. Finally, the failure to adopt a budget resolution undermines a principal aim of comprehensive congressional budgeting: to affirm Congress's role as the policymaking branch of government and maintain the balance of powers opposite the President.

Congress could address these hazards by curtailing or eliminating exceptions that allow the consideration of spending bills even without a budget resolution. One way to do this might be to close these loopholes entirely or allow them only with a strong supermajority vote, such as a two-thirds or three-fourths vote of each chamber.<sup>62</sup>

Such an approach would entail some risks. For example, if the House and Senate failed to agree on a budget resolution, they could hamstring the appropriations process so badly that Congress would resort even more often to continuing resolutions—unless these, too, were prohibited. Further, in a sharply divided Congress, lawmakers are unlikely to agree to anything better than a vague, watered-down resolution. Such a measure would probably maintain the status quo but be drained of the defining, principled characteristics that it should have as an expression of Congress's priorities and policy goals.

As history shows, the challenges in adopting a budget resolution can be considerable, especially in a divided Congress. Still, that should not become an excuse to let Congress neglect its role as the policymaking branch of government and abdicate its most fundamental governing responsibilities.

**Proposal: Cap Spending and Deficits.** The absence of firm spending limits is a major weakness in congressional budgeting. Most reform proponents, including analysts at The Heritage Foundation, have recommended adopting one or

more spending caps in a stand-alone statute.<sup>63</sup> The ceilings could be applied to total spending and/or particular categories, such as specific entitlement programs or entitlements overall. As noted earlier, some reformers also propose long-term caps, running as many as 30 years, especially for major entitlement programs.

Spending caps alone cannot make the major policy changes needed to put government spending on a sustainable path. That would require program design changes. Moreover, Congress can amend or even discard statutory spending caps. Still, such limits, especially if accompanied by strong enforcement mechanisms, could create another incentive for needed policy changes by compelling spending restraint.

Another option is to make spending caps, however they are defined, a regular feature of reconciliation bills rather than stand-alone legislation or other measures. Then, if Congress wanted to adjust them—as often occurs—it would need to pass a budget resolution, a necessary step for triggering reconciliation. This approach also would mean that cap adjustments, up or down, would be addressed only in the context of spending-reduction policy changes, the role that reconciliation has come to play. Further, because reconciliation bills become law if signed by the President, this approach would satisfy an aim of proponents of a joint budget resolution: It would give budget limits the force of law.

**Proposal: Limit Tax Expenditures.** Related to entitlement spending are the hundreds of billions of dollars in credits, deductions, exclusions, exemptions, and preferential rates that have proliferated in the tax code, many intended as a proxy for direct subsidies. Analysts differ on how to define these “tax expenditures,” and there is strong disagreement on which are akin to direct spending and which are legitimate features of a pro-growth tax code (e.g., steps to eliminate the double taxation of savings). With the exception of refundable credits that do result in higher outlays, these provisions do not actually increase spending, but they often distort tax burdens and create perverse economic incentives.

Moreover, the most questionable special tax breaks resemble entitlements in that they are open-

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62. Such a provision is included in the Honest Budget Act (S. 1651, 112th Cong.), introduced by Senators Jefferson B. Sessions (R-AL) and Olympia J. Snowe (R-ME).

63. See Stuart M. Butler, Alison Acosta Fraser, and William W. Beach, eds., *Saving the American Dream: The Heritage Plan to Fix the Debt, Cut Spending, and Restore Prosperity*, The Heritage Foundation, 2011, <http://savingthedream.org/about-the-plan/plan-details/>.

ended, are available to anyone who qualifies, and operate on automatic pilot. They make it harder to reduce marginal tax rates, and they affect the overall fiscal outlook. Further, to the extent they seek to provide selective financial assistance, manipulate behavior, or promote government-approved “investments,” they represent an expansion in the size and scope of government that is not reflected in the regular spending totals. The budget process has no systematic means of evaluating or controlling these provisions.<sup>64</sup>

A first step in addressing this problem would be to substantially simplify and improve the tax code. That would include removing as many as possible of these tax expenditures that distort the code and economic behavior and trading these for lower rates, retaining only those that are fully justified. Taxes are intended to raise revenue to finance government spending with the minimum impact on growth. They should not be extensively employed to influence behavior or manipulate economic decisions.

In removing these measures, however, lawmakers should remember that they are in fact *revenue* provisions. Hence, their elimination should be offset with commensurate tax reductions, especially in marginal rates. Otherwise, tax simplification will become only an indirect means of promoting larger government.

**Proposal: Adopt Enhanced and Expedited Rescission.** Proposals to accelerate the rescission of specific items from spending bills flow from the concept of a presidential line-item veto. Interestingly, this seemingly reasonable fiscal discipline, aimed at stripping parochial provisions from legislation, actually raises fundamental questions about the constitutional system itself and the relationship between budgeting and governing. “Money is the instrument of policy and policy affects the lives of citizens,” wrote Justice Anthony J. Kennedy. “The individual loses liberty in a real sense if that instrument is not subject to traditional constitutional constraints.”<sup>65</sup>

The Supreme Court struck down the Line Item Veto Act of 1996 on the grounds that it shifted too much power to the President and fundamentally altered the legislative process. Efforts to adapt to this ruling regrettably produce a weaker, but not

irrelevant, procedure. It is not very different from the current constitutional arrangement in which, if the President vetoes a bill, he sends it back to Congress with a message explaining his objections. What is new is that enhanced or expedited rescission proposals would compel a vote on the President’s recommendations within a limited time frame.

Although the authors of enhanced rescission bills have carefully sought to avoid the problems with the line-item veto, a constitutional question still might arise.

The 1996 bill allowed the President to sign a spending or tax bill, making it law, while simultaneously cancelling specific budget authority or tax provisions in the same bill. Congress could overturn the cancellation only through a congressional resolution of disapproval, which—even if it passed the Congress—the President could then veto. Thus, the President’s rescissions would almost certainly hold.

The act violated the Presentment Clause (under Article I, Section 7 of the Constitution) because it complicated the simple and straightforward procedure by which a bill becomes law and because it created a significant encroachment by the executive on legislative authority. It effectively allowed the President to enact a bill and simultaneously rewrite it. This powerful tool would have disrupted the balance between the legislative and executive branches. As Justice John Paul Stevens wrote for the Court:

There are important differences between the President’s “return” of a bill pursuant to Article I, §7, and the exercise of the President’s cancellation authority pursuant to the Line Item Veto Act. The constitutional return takes place *before* the bill becomes law; the statutory cancellation occurs *after* the bill becomes law. The constitutional return is of the entire bill; the statutory cancellation is of only a part.... Our first President understood the text of the Presentment Clause as requiring that he either “approve all the parts of a Bill, or reject it in toto.” What has emerged ... from the President’s exercise of his statutory cancellation powers, however, are truncated versions of two bills that passed both Houses of Congress.

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64. See Donald B. Marron, “Spending in Disguise,” *National Affairs*, Summer 2011, <http://www.nationalaffairs.com/publications/detail/spending-in-disguise> (accessed February 7, 2014).

65. *Clinton v. City of New York*, 524 U.S. 417 (1998) (Kennedy, J., concurring).



They are not the product of the “finely wrought” procedure that the Framers designed.<sup>66</sup>

One version of an enhanced rescission bill<sup>67</sup> attempts to avoid these problems by maintaining the distinction between legislative and executive roles. It would allow the President to withhold, for up to 45 days, line items of spending authority in a bill he signs. The President would send Congress a message, within no more than 45 days, identifying the proposed cancellations. Congress then would prepare, in an expedited process, legislation rescinding the identified funds and vote it up or down.

Even proponents concede the procedure would probably not yield large savings, and its success would depend on a President who truly wanted to reduce spending. Moreover, whether this approach threads the constitutional needle may depend on how much the Court judges that the temporary cancellation of spending authority disrupts the procedure described in Article 1, Section 7. The Court could view this simply as a kind of enhanced impoundment authority, which might be acceptable. On the other hand, it could raise questions as to whether the procedure allowed the President to execute a law he has signed *selectively*, even though this condition would be temporary.

Even if such a procedure passed constitutional muster, one might legitimately ask why Congress would want it. It raises the question of whether token budgetary savings are worth the risk of ceding more power to the President to bypass, in practice, Congress’s spending decisions. Lawmakers also should consider the elegant simplicity of the “finely wrought” legislative process as described in the Constitution. It is arguably one key reason that the process has held up over the centuries. Complicating it, even in a carefully drawn procedure with good intentions, could unsettle its stability.

**Proposal: Restrict Emergency Spending.** A major temptation to violate budget disciplines lies in emergency or disaster designations, intended for unexpected weather or other catastrophes. The designations allow supplemental spending beyond

levels in a budget resolution. Because these are considered “must-pass” measures, they have become magnets for additional spending that would not be approved on its own merits. While the emergency option may be a necessary safety valve in extraordinary cases, its overuse weakens the budget resolution by providing a means of breaching its fiscal parameters. It also undermines the role of budgeting as a means of limiting government by limiting spending. For both reasons, emergency spending should be tightly constrained.

A common proposal to curtail abuse of the emergency designation is to require such spending to conform to a strict definition of what “emergency” means. The long-standing concept is that an emergency is an event that requires immediate funding for relief or mitigation of a sudden, unexpected, and temporary event that threatens life, property, or national security. Such a definition was included in the BCA of 2011.

Another option has been to set aside an amount of emergency funding for such events. The amount of the set-aside typically is based on something like the average of emergency spending over a preceding duration (usually 10 years), eliminating the highest and lowest amounts. Such a formula also was included in the BCA for planning disaster spending.

In principle, such proposals could be helpful in preventing completely unrestricted use of emergency spending, but they are no guarantee. Severe weather events, such as Hurricane Sandy, can occur at any time and require funds far beyond the set-aside amount, which opens the floodgates to additional emergency spending. Concocting a definition broad enough to cover all truly unexpected catastrophic events yet narrow enough to limit emergency spending is a delicate linguistic task. Even if that were achieved, such a definition could not restrain a determined congressional majority from justifying emergency spending that lawmakers truly desire.

One approach to constraining questionable emergencies would simply require a supermajority vote (e.g., three-fifths or two-thirds of the Members in each chamber) to approve any spending outside of

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66. *Clinton v. New York*, 524 U.S. 417 (1998) (emphasis in original). The quotation of President George Washington comes from *Writings of George Washington*, 1940. The phrase “finely wrought” comes from a prior case concerning the Presentment Clause: *INS v. Chadha*, 462 U.S. 919, 952 (1983).

67. See the Expedited Line-Item Veto and Rescission Act (H.R. 3521, 112th Cong.), introduced by Representatives Paul D. Ryan (R-WI) and Christopher Van Hollen (D-MD) and passed by the House in February 2012.

the budget resolution limits. In this way, emergency spending could be justified only by a truly bipartisan consensus. A refinement would allow emergency designations in the Senate only when added by amendment—they could not appear in any base bill—and only if supported by a supermajority.<sup>68</sup>

Such steps would risk driving up spending because proponents of an emergency bill might need to “buy” votes by incorporating individuals Members’ pet provisions. Nevertheless, supermajority requirements would be a practical and straightforward means of raising the threshold for emergencies, an improvement on current practices.

**Proposal: Require Supermajorities to Waive Other Budget Rules.** Similarly, reformers should consider raising the bar for overturning other budget disciplines.

The Congressional Budget Act has several enforcement provisions. For example, it prohibits consideration of legislation that exceeds a committee’s allocation of spending authority. It also precludes lawmakers from taking up legislation that would cause a breach in the budget’s aggregate spending or that would cause tax revenue to fall below the floor in the budget resolution. Each chamber supplements these provisions with additional budget disciplines built into the rules of its proceedings.

The Budget Act rules are not self-enforcing. A Member must raise a point of order for them to take effect, but a simple majority can waive the point of order. Consequently, if any bill has enough support for passage—even if by just one vote—it is all but guaranteed to overcome any Budget Act restrictions. In addition, the rules governing debates on legislation often contain blanket waivers of Budget Act points of order.

Raising the bar on overcoming such violations, while not a panacea, would at least make it more difficult for Congress to violate its agreed spending limits. This would create more pressure to ensure that even popular bills conform to the budget, making the budget resolution a more robust instrument for governing.

### Technical and Estimating Issues

Just as a house requires sound engineering, a realistic budget depends on reliable fiscal estimates of policy choices. This entails numerous con-

ventions and methods employed by the CBO with the approval of Congress. Although these practices are carefully developed and regularly reviewed, they can lead to confusion or misunderstanding by those who are unfamiliar with their technical underpinnings. They can also tempt lawmakers to distort policy proposals so as to mask potentially undesirable budgetary estimates. Several options have been advanced to address these concerns.

**Proposal: Reform “Baseline” Budgeting.** A frequent target of budget critics is the baseline, the yardstick against which the fiscal effects of policy proposals are measured. The baseline is intended to provide a neutral standard for comparison, but “neutrality” may have different meanings.

The essential controversy is not so much about the existence of baselines as it is about how they are used. Congress clearly needs projections of the budgetary effects of current laws and policies to estimate the net impact of changes in law. This is especially true with entitlements because numerous factors outside of Congress’s control—such as caseloads, inflation, and medical cost growth—drive their increases. Further, it is reasonable to account for inflation in estimating how much it will cost to maintain a discretionary program without change 10 or more years from now. For instance, Congress needs to know what it would cost in the future to run America’s armed forces at today’s degree of capability and readiness. Lawmakers need this information to make realistic fiscal judgments.

One problem is that baselines, not the prior year’s spending amounts, are used as the starting point for the budget. This leads to the much-celebrated confusion over whether a given proposal represents an increase in spending or a reduction. As Professor Shick points out, a baseline enables lawmakers to be creative in portraying their proposals to the public:

Legislation often results in spending that is higher than the current level but below the baseline. This pattern enables politicians to portray their actions as both a spending cut and a spending increase. They can use the baseline to make the case that spending has been reduced, and they can point to current spending levels to show that programs have been protected. Making the case both ways is no small political feat; it enables

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68. This proposal is included in the Sessions-Snowe Honest Budget Act.

cross-pressured politicians to satisfy the conflicting demands that they cut the size of government and increase the size of programs.<sup>69</sup>

Current-law baselines also can create significant confusion in tax policy. The CBO's estimates over the past decade have projected a huge boost in revenue from the scheduled expiration of tax relief policies enacted in 2001 and 2003—although no one ever expected all of those policies to expire at once. This created an Orwellian twist that presented the simple continuation of existing tax policies as a new tax “cut” and corresponding deficit increase because it differed from the tax increases assumed in law.<sup>70</sup> Thus, the rules have “the unfortunate side effect of creating a budget baseline that may differ from a reasonable expectation of future policy.”<sup>71</sup> The CBO has tried to compensate by presenting alternative baselines incorporating more likely policy choices, but regrettably, these efforts have done little to relieve the confusion.

This is more than a rhetorical problem, especially on the spending side. It is an invitation, says Schick, to manipulate policies just to achieve the desired scoring:

Because the baseline hinges on assumptions, it provides ample scope for politicians to save programs by assuming savings will occur. They can meet savings targets by making some provisions temporary and taking credit for additional savings each time the provisions are extended. They can manipulate the score by enacting legislation that is effective at different periods covered by the baseline.<sup>72</sup>

The fundamental question is whether these baseline projections are suitable as a matter of budgeting generally. It is one thing to say a given program's spending will increase; it is quite another to say it *should*. The Peterson–Pew Commission argues:

Use of either current law or current policy as the base against which to measure changes has the effect of walling off changes in mandatory spending and revenues that were allowed to take place by elected officials as if they had no responsibility for them. As a result, ever-growing shares of the budget appear to be on autopilot, off limits to the interventions of policymakers.<sup>73</sup>

One suggested solution is to start every budget from zero. This might be satisfying in some respects—challenging policymakers to justify anew every dollar of spending every year—but would likely make little difference. Both budgeting and governing are incremental. Most programs and agencies, from Medicare to the military, were established on the assumption of some continuity from one year to the next. The status quo is typically accepted as the starting point.

Another option would be to eliminate the automatic inflation adjustment in discretionary spending from the baseline.<sup>74</sup> This would eliminate the assumption of built-in, automatic spending growth; lawmakers would have to justify even the increases intended to accommodate changes in purchasing power.

For the purpose of overall budgeting, many would argue that the more appropriate base is the prior year's spending. This would eliminate one bias toward higher spending that exists with the current use of baselines, advancing the constitutional aim of limiting government. It would also force lawmakers to take responsibility for *all* spending growth, not just the incremental increases above the already inflated baseline. According to the Peterson–Pew Commission:

[B]udget documents must begin to report in a way that holds elected officials accountable for changes that take place as a function of all laws, not just those that are newly enacted. If policymakers chose to permit spending or revenues to

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69. Schick, *The Federal Budget*, p. 68.

70. This year's “fiscal cliff” agreement ended the problem by making its tax policies permanent.

71. Donald B. Marron, “Understanding CBO Health Cost Estimates,” Heritage Foundation *Backgrounder* No. 2298, July 15, 2009, <http://www.heritage.org/research/reports/2009/07/understanding-cbo-health-cost-estimates> (accessed February 7, 2014).

72. Schick, *The Federal Budget*, pp. 68–69.

73. Peterson–Pew Commission on Budget Reform, “Getting Back in the Black.”

74. See the Baseline Reform Act (H.R. 3578, 112th Cong.), introduced by Representative W. Robert Woodall (R-GA) and passed by the House in February 2012.

continue to change as mandated by existing laws, documents that show those changes from current levels would enable the public to hold them accountable for those choices.<sup>75</sup>

**Proposal: Address Other Scorekeeping Issues.** The methods of estimating the fiscal effects of legislation—a seemingly technical exercise—can dramatically affect the direction of fiscal policy. The Congressional Budget Office strives to serve as an impartial umpire, but lawmakers often treat its analyses as nearly sacred. A CBO estimate can derail a measure by projecting greater spending or deficits than allowed under the budget limits in place at the time. As a result, legislators often contort their policy proposals to fit within applicable budget parameters. This is especially problematic because the CBO is required to present pinpoint dollar estimates. Although this may be necessary for enforcement purposes, it implies a degree of precision that is simply unrealistic.

In its effort to be consistent and ideologically impartial, the CBO employs numerous scorekeeping conventions, ranging from broad macroeconomic analyses to highly specific matters, such as how to account for government user fees. These conventions are reviewed by various budget experts and are subject to congressional approval. They also are unavoidably influenced by the CBO’s prevailing economic theories and assumptions, regardless of how carefully analysts may try to balance these. For instance, the CBO’s quarterly assessments of the American Recovery and Reinvestment Act consistently showed economic growth resulting from the act precisely because the analyses employed the same Keynesian assumptions on which the act was built.<sup>76</sup>

Estimating practices should be updated or revised in many areas to provide a more realistic view of budget and fiscal policy. Because of the highly technical nature of the practices, the process might best be handled by a special commission whose recommendations would be subject to approval by Congress. The last time such a commission was empaneled was 1967, and that was well before adoption of the Congressional Budget Act, which created the CBO.<sup>77</sup>

One area worthy of consideration is popularly known as “dynamic scoring.” The principle is that certain changes in fiscal policy, such as reductions in tax rates, can alter both behavior and economic output, which in turn can affect the magnitude of changes in federal tax revenue. Specifically, the revenue forgone due to a tax reduction may be smaller than estimated under conventional static models that do not incorporate potential growth effects. Most economists acknowledge some dynamic effects from tax cuts, although they do not agree on the magnitude.<sup>78</sup>

Although the Joint Committee on Taxation conducted such a “macroeconomic analysis” of the tax reform proposal by Ways and Means Committee Chairman Dave Camp (R-MI), the practice is not customary. CBO Director Douglas W. Elmendorf writes:

CBO’s cost estimates generally do not reflect changes in behavior that would affect total output in the economy, such as any changes in labor supply or private investment resulting from changes in fiscal policy. That is, CBO’s cost estimates generally do not include what is sometimes known as “dynamic scoring.”<sup>79</sup>

The CBO’s estimates do, however, incorporate other kinds of behavioral changes that may affect costs or savings. As Elmendorf notes:

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75. Peterson-Pew Commission on Budget Reform, “Getting Back in the Black.”

76. See Curtis S. Dubay, “CBO Stimulus Report Begg the Question,” The Heritage Foundation, *The Foundry*, May 31, 2012, <http://blog.heritage.org/2012/05/31/cbo-stimulus-report-begg-the-question/>, and J. D. Foster, “Why the Demand Side Stimulus Failed,” testimony before the Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending, Committee on Oversight and Government Reform, U.S. House of Representatives, February 16, 2011, <http://www.heritage.org/research/testimony/2011/02/why-the-demand-side-stimulus-failed>.

77. See *Report of the President’s Commission on Budget Concepts* (Washington: U.S. Government Printing Office, October 1967).

78. See N. Gregory Mankiw and Matthew Weinzierl, “Dynamic Scoring: A Back-of-the-Envelope Guide,” *Journal of Public Economics*, Vol. 90, Nos. 8–9 (September 2006), pp. 1415–1433.

79. Douglas W. Elmendorf, “Macroeconomic Analysis of Legislative Proposals,” Congressional Budget Office, May 9, 2013, <http://www.cbo.gov/publication/44165> (accessed February 7, 2014).

For example, the agency's estimates include changes in the production of various crops that would result from adopting new farm policies, changes in the likelihood that people will take up certain government benefits when policies pertaining to those benefits are changed, and changes in the quantity of health care services that are provided when Medicare's payment rates to providers are changed.<sup>80</sup>

At present, according to Elmendorf, the CBO lacks sufficient capacity to conduct such analyses on a regular basis because it requires complex modeling and considerable time not typically available to CBO analysts. Even then, the estimates might capture only some of the dynamic effects and, hence, would be even more uncertain.<sup>81</sup>

Analysts also would need to make assumptions about how tax cuts would be financed. Former CBO Director Penner notes:

Is it by immediate spending cuts, or by spending cuts in the future? Is it by future tax increases, or by more government borrowing? Or is it financed simply by printing more money? To produce a single estimate, analysts would need to decide which of these mechanisms is most likely.<sup>82</sup>

These challenges and concerns are legitimate. Nevertheless, in the interest of providing lawmakers with better information on the likely results of their policy proposals, it would seem to be worth the effort to deal with them. Most proposals call for using dynamic measures not as official scoring, but as accompanying estimates that would reflect a wider range of potential outcomes.<sup>83</sup> This could expand legislators' understanding of tax and spending policies as well as offering a kind of pilot program in which the CBO could refine its techniques and methodologies.

Apart from estimating issues is the question of the budget window itself. The CBO's estimates often are criticized for being too shortsighted and setting up perverse incentives. By focusing on the first 10 years, projections ignore the longer-term effects of policy proposals, particularly of entitlements, where the design of a law can—often consciously—mean an explosion of spending beyond the 10-year estimate. Indeed, lawmakers now commonly phase in program expansions, deliberately limiting the spending and deficit impact of the first decade, backloading the much larger effects into subsequent years.

At times, the CBO has attempted to address longer-term effects of legislative proposals, but it has limited abilities to do so regularly or with great confidence. In light of the rapid projected growth of entitlement programs, it would be beneficial for the CBO to enhance its capabilities in this area or at least to address estimates for future decades more regularly. The latter practice, even if imperfect, would help to remind lawmakers about the longer-term effects of their proposals.

Yet another issue concerns how the government accounts for its credit programs, such as home and student loans. Current accounting rules under the Federal Credit Reform Act of 1990 do not fully measure the government's exposure because they do not fully account for the government's risk when it takes on the loan. This practice "makes the reported cost of federal direct loans and loan guarantees in the federal budget lower than the costs that private institutions would assign to similar credit assistance based on market prices."<sup>84</sup> Consequently, some recommend changing to a fair-value accounting method, which would take this risk into account.<sup>85</sup> To the extent that such a practice would improve the accuracy of credit estimates, policymakers might want to consider them in conjunction with other estimating issues.

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80. Ibid.

81. Ibid.

82. Rudolph G. Penner, *Dynamic Scoring: Not So Fast!* Urban Institute, April 21, 2006, <http://www.urban.org/publications/900946.html> (accessed February 7, 2014).

83. One example is the Pro-Growth Budgeting Act (H.R. 3582, 112th Cong.), introduced by Representative Thomas E. Price (R-GA) and passed by the House in February 2012.

84. Congressional Budget Office, "Fair-Value Accounting for Federal Credit Programs," *Issue Brief*, March 2012, [http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-05-FairValue\\_Brief.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-05-FairValue_Brief.pdf) (accessed February 7, 2014).

85. See the Budget and Accounting Transparency Act (H.R. 3581), introduced by Representative E. Scott Garrett (R-NJ) and passed by the House in February 2012.



## Conclusion

The collapse of congressional budgeting in recent years is only the most prominent symptom of Congress's more general dysfunction. It has also come to exacerbate the legislature's broader failings as a governing institution. Restoring one may well entail restoring both.

In attempting to revive the budget process, lawmakers will tend to stress practical remedies; they will look for ways to cure the numerous specific flaws and complexities that plague current procedures. This is reasonable and necessary. Whether legislators pursue incremental changes, such as those addressed in the foregoing discussion, or a more thorough (and probably necessary) reconstruction of the entire process, budgeting must be efficient and manageable to be sustained.

Either way, lawmakers should ultimately judge budget reform in the broader and more profound context of budgeting as an essential act of governing. The power of the purse is Congress's principal instrument for limiting government, fulfilling its own policymaking role, reinforcing the balance of powers, and controlling the administrative state. It is indeed the most effective means of implementing "every just and salutary measure." Lawmakers should craft a budget process that serves, above all, as a primary means of realizing constitutional government.

—*Patrick Louis Knudsen prepared this paper during his appointment as a Visiting Fellow and Consultant in American Studies at The Heritage Foundation.*