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The Joint Budget Resolution: A More Collaborative Budget Process

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This essay is an edited excerpt from a 2015 Mercatus Research study, “The Budget Act at Forty: Time for Budget Process Reform,” which reviewed process reforms that can help facilitate agreement between Congress and the president and can focus attention on long-term spending commitments.

The Congressional Budget and Impoundment Control Act of 1974 established the modern federal budget process. All signs indicate that the act, now four decades old, is not working.

The fundamental problem with the nation’s finances—and thus the problem our budgetary procedures should focus on solving—is the runaway expense of entitlement programs, often described as “mandatory spending.” The current budget process does not force policymakers to confront the pressure that these massive programs exert on the federal budget. The process also lacks a ready mechanism for bridging the predictable conflicts that occur between the president and Congress.

A joint budget resolution (JBR) could provide a partial antidote for the problems of budgetary drift, rising entitlement spending, and endless inertia in current federal budgeting practices. While today’s congressional budget resolution (CBR) applies restrictions only to consideration of legislation in Congress, the JBR is signed by the president and becomes law. It would thus have the potential to facilitate an agreement between the executive and legislative branches on key budgetary provisions that would govern decisions later in the budget process, and it could provide more structure and stability to government finances.

THE ORIGINS OF TODAY’S BUDGET PROCESS

The Budget Act of 1974 was enacted to turn back executive branch overreach in budgeting and to increase the legislative branch’s role in policymaking by creating an organized congressional process for budget development.¹

The Budget Act's most important institutional change was the creation of the House and Senate budget committees and the Congressional Budget Office (CBO). With the help of CBO's independent and nonpartisan budgetary analyses, the budget committees develop a congressional budget resolution that serves as a counter or response to the president's annual budget submission.

Under the Budget Act, the CBR is not a law. Rather, it is a concurrent resolution, which means it is only relevant for Congress—the president is in no way bound by the CBR. If there is an ongoing disagreement between the branches, the anticipation of a veto is usually enough to bring the entire budget process to a standstill. This is an important reason why there are regular, drawn-out budget fights between Congress and the president.

MOVING TO A JOINT BUDGET RESOLUTION

A joint budget resolution may provide a better way forward. As a JBR must be signed into law, it has the potential to facilitate—and perhaps even pressure—agreement between the legislative and executive branches on key budgetary provisions that would govern decisions made by both branches later in the year.

While today's process allows for ad hoc negotiations on multiyear budgets, there is no expectation of regular legislative-executive engagement on a budget framework. This is one reason why the two branches engage so infrequently, allowing both branches to put off pressing fiscal issues like entitlement reform.

The JBR would address each of the main decision points of a federal budget: discretionary spending (perhaps with separate limitations on defense and nondefense spending), entitlement programs, and revenue. Constructing the JBR in this way would help policymakers think more clearly about tradeoffs between the key budget categories and about projected deficit spending and debt. For instance, Congress and the president could choose to put more pressure on entitlement programs to ease pressure on discretionary accounts (or vice versa). They could also authorize higher levels of spending, but that would also mean larger deficits and higher debt. And proposals that cut deficit spending with tax hikes would be clearly identified in the budget plan.

THE ENFORCEMENT MECHANISM

The purpose of establishing an enforceable budgetary framework in a JBR is to set in motion additional

legislation in Congress to bring programs and taxes in line with budget totals. Presumably, large changes in entitlement spending and taxes contained in a JBR would be assigned to the authorizing committees in the form of reconciliation instructions. This would allow fast-track consideration of the reforms implied in the JBR's top-line numbers.

Congress will only feel the pressure to act on tough legislative reforms if the budgetary caps in the JBR are binding in some way. It is critical, therefore, that the JBR have the capacity to trigger discipline in mandatory spending, along with enforceable caps on discretionary expenditures. Indeed, the primary advantage of the JBR over the CBR is that budgetary limits can be coupled with enforcement actions if they are combined in a law signed by the president.²

Budget sequestration—automatically triggered spending reduction—has been effective at controlling discretionary spending and could be continued in its current form in a JBR.³ Sequestration eliminates spending above the agreed-upon cap by applying a uniform, across-the-board cut to all nonexempt programs at a rate sufficient to eliminate the breach.

Restraining mandatory spending will require additional features. Spending could be cut by canceling future spending increases and planned program liberalizations. Those changes could be coupled with other predetermined mechanisms of restraint.

The process for enforcing mandatory spending levels should be recalibrated periodically so that actual spending is brought in line with the JBR levels based on revised estimates. In addition, spending restraint should be implemented over several years, perhaps as many as five, to avoid abrupt annual adjustments.

Some programs for very low-income Americans, such as Supplemental Security Income, should be exempted from an enforcement mechanism for mandatory spending, but it is not unreasonable to include some income-support programs within the parameters of an enforcement approach. For instance, if spending breached an upper limit, eligibility for the Supplemental Nutrition Assistance Program might be lowered modestly for the highest-income participants. Similar adjustments could be made to other programs.

Medicare and Medicaid should be explicitly included in the enforcement mechanism.⁴ For example, Medicaid matching payments to states should be reduced as

needed to help keep total spending on mandatory programs below the cap. States will rightly complain that this move will burden their budgets. They should be granted relief from existing federal Medicaid mandates to provide them with flexibility when coping with this cut.

Automatic cuts to Medicare should be designed to promote reform rather than hinder it, meaning cuts should focus on adding much-needed cost consciousness to the program's design. For example, higher-income beneficiaries should be required to pay more for their services, and all beneficiaries should be required to pay something when they receive care.

Finally, an effective sequester design would preclude any automatic increases if spending came in below the budget resolution caps. Any new spending would require legislation.

IMPLEMENTING THE JOINT BUDGET RESOLUTION

The Budget Act should be amended to allow an optional JBR “spin-off” from any CBR agreed to by both the House and Senate. Congress would not have to pursue a JBR, but if it chose to do so, the legislation would automatically be sent to the president upon adoption of a CBR. The JBR would reflect the key budgetary aggregates: total discretionary spending, total mandatory spending, revenues, deficits, and debt. The president could then approve or veto the bill.

If the president vetoed the JBR, the process would revert back to the process that is in place today under the Budget Act. Congress could proceed under the terms of the budget resolution, and engagement with the executive branch would be postponed until later in the year when the spending and tax bills flowing from that budget move to the president. If, however, the president agreed to the JBR, the budget framework contained within it would be law, and both branches would be bound by it.

CONCLUSION

Reforming the congressional budget process cannot make up for a lack of political will, nor can it substitute for the policy changes necessary to correct the government's fiscal problems. Yet the right reforms to the process, including the JBR, can open up new potential for agreements between Congress and the president and can focus attention on long-term spending commitments. Even in times of divided government, the JBR

would allow for engagement between the branches that might, under some circumstances, facilitate compromise and agreement.

NOTES

1. For a concise history of federal budget process changes in US history, see Nooree Lee, “Congressional Budget and Impoundment Control Act of 1974, Reconsidered” (Briefing Paper No. 34, Harvard Law School Federal Budget Policy Seminar, Harvard Law School, Cambridge, MA, April 29, 2008).
2. The JBR's budgetary limits can trigger enforcement actions, something the CBR cannot do. This is because implementation of spending changes, such as across-the-board spending reductions, is an executive function that can only be set in motion by a law, not an internal legislative resolution. In *Bowsher v. Synar*, the Supreme Court held that enforcement of spending limits could not be carried out by the General Accounting Office (now called the Government Accountability Office), which is a legislative branch agency. See *Bowsher v. Synar*, 478 U.S. 714 (1986).
3. Since discretionary spending caps were first instituted in the 1990 budget agreement, discretionary spending has fallen well below the historical norm, except for the years associated with the deep financial crisis of 2007–2009. See David Reich, “Non-Defense Discretionary Programs Have Seen Large Cuts and Face More Cuts in 2015,” Center on Budget and Policy Priorities, November 18, 2014.
4. The existing sequester mechanism for mandatory programs, enacted in the Budget Control Act of 2011, excludes the entirety of Social Security and Medicaid, and the cuts to Medicare reinforce the program's excessive reliance on payment rate regulation to control costs. For a description of these procedures, see Richard Kogan, “How the Across-the-Board Cuts in the Budget Control Act Will Work,” Center on Budget and Policy Priorities, April 27, 2012.

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