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Strengthening the Congressional Budget Process: The Role of Process Reforms

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Thank you Chairman Conrad and Ranking Member Sessions and other members of the Committee. I appreciate the opportunity to testify on ways to improve the timeliness of the congressional budget process. In particular, I have been asked to comment on a provision of new proposed legislation strengthening the incentives for Congress to adopt a budget resolution before appropriations bills. I have also been asked to comment on the potential efficacy of a joint budget resolution in streamlining the budget process.

There is no question that Congress can improve the efficiency of its budget decision-making. Trends toward greater uncertainty and delays in funding have effects not only on public confidence in the Congress but also on program delivery and costs. The real question is whether budget process reforms can solve these problems and at what cost to other values and priorities we care about. Real reforms can be made by strengthening the role of this committee and promoting greater coordination and integration across the committees with roles to play in resource allocation. Such reforms are especially critical as the nation enters what is likely to be a prolonged period of fiscal austerity. However, these reforms would affect the political standing of competing interests and actors in ways that could very well change the character of the Congress.

The problem of untimely congressional policy actions

The congressional budget process envisions a two-step process in congressional budgeting. The first is the annual adoption of a budget resolution establishing aggregate levels of revenues, spending, the debt limit and surplus and deficits. In addition, the resolution includes allocations of spending across budget functions and to committees through Section 302(a) ceilings. Appropriators subsequently make their own allocations to their subcommittees under Section 302(b). Points of order could be raised against appropriations bills that either breached these ceilings or were moved in the absence of a budget resolution.

Absent a budget resolution, appropriations can proceed by relying on the levels from the prior year's budget resolution. However, since these targets typically become outdated, both chambers have adopted deeming resolutions to provide the basis for appropriations to go forward. Moreover, in certain years, the Senate considered appropriations bills using the Senate passed budget resolution without moving a formal deeming resolution.¹

In recent years, significant delays have occurred in recent years in both the adoption of budget resolutions and appropriations bills. For 31 of 36 years between FY 1976 and

¹ Megan Suzanne Lynch, *The Deeming Resolution: A Budget Enforcement Tool* (CRS: June 9, 2011)

2011, the House and Senate adopted at least one budget resolution. Agreement was reached in April through early June which allowed regular appropriations bills to be brought to floor of each chamber. However in recent years, Congress has failed to adopt a budget resolution five times - FY 1999, 2003, 2005, 2007, and 2011.

Late appropriations, or no regular appropriations, have become an increasingly regular occurrence, even in years when budget resolutions were passed. Beginning in the early 1970s, conflicts between the President and Congress over major budget priorities, triggered in part by rapidly increasing deficits, greatly increased the difficulty of reaching final agreements on regular appropriations acts, even after the start of the fiscal year was shifted from July 1 to October 1. The last year when all 13 appropriations bills were passed individually before October 1 was 1997. Since then, omnibus bills have provided appropriations for many years, but continuing resolutions have also filled the void when political conflict prevented timely congressional appropriations. ²

In their analysis, GAO found that the duration of individual CRs enacted from 1999 to 2009 ranged from 1 to 157 days and the number of CRs enacted in each year ranged from 2 to 21. The average length of the CR period was about 3 months.³

Most continuing resolutions provided funding for agencies at conservative levels, often referencing levels from last year's appropriation or the lowest of pending appropriations bills. While lower spending may be welcomed by many, the GAO report found significant problems stemming from uncertainty about funding for federal agencies and program managers. The consequences included:

- Delays in contracts and grants as agencies postpone commitments until full appropriations for the year become clearer. As a result, the time available to process these commitments becomes compressed near the end of the fiscal year.

- Postponement of needed work which increases eventual costs. For instance, the Veterans medical centers postponed contracts for repairs to facilities, a delay which was expected to increase costs.

- Hoarding and delays in allocating resources for such items as travel, training and other federal costs, as agencies await full appropriations before making full year commitments

- Delays in hiring new staff, at a time when federal agencies are in need of replenishment of an aging workforce.

² Sandy Streter, *The Congressional Appropriations Process: An introduction* (CRS: December 2, 2010)

³ U.S. Government Accountability Office, *Continuing Resolutions: Uncertainty Limited Management Options and Increased Workload in Selected Agencies* (GAO-09-879, September, 2009)

--Agency absorption of pay increases and benefit increases under longer term CR's, even though appropriations is often pegged to last year's levels.

--Higher administrative costs from repetitive issuance of contracts and grants to fit the shorter term funding authority available under CR's.

The Role of Budget Process Reforms

The problems I have just discussed reflect a fundamental erosion of comity and agreement within the Congress on basic fiscal policy goals and direction. Budgeting has become increasingly contentious and more challenging as a result, with wide ranging consequences – including delays.

The past 40 years has witnessed the collapse of the middle ground in national policy institutions, as the parties realigned regionally and became more polarized, with Members playing more to the activists of newly reinvigorated parties

The tradeoffs and hard choices that budgeting requires are far more difficult to achieve under this new political system. The virtual fish bowl of media and interest group coverage makes forming coalitions and winning necessary concessions far more difficult and even politically hazardous for Members of Congress and Presidents alike. The disappearing middle in Washington removed the ballast that is often so essential to bring about fiscal order from the political cacophony.

Budgeting, at one time the quiet province of incremental decision-making by Members from safe seats, has been transformed into a series of litmus tests on the fealty of Members of Congress to key constituencies and ideologies. Under such a political system, agreement is harder to come by – and delays are far more likely.

This is not the only factor inhibiting timely agreement on budget resolutions. The budget choices facing policymakers have become far more difficult. Facing record peacetime deficits, policymakers must craft a budget resolution that puts the nation on a more sustainable fiscal course, and this involves considering painful cuts on the spending side as well as tax increases. States which have historically had good records of meeting appropriations deadlines have recently experienced notorious delays extending several months in states like California and Minnesota, owing to the difficult choices they faced in erasing deep deficits.

Does this mean that we should give up and cancel this hearing? Of course not. Budget process reforms can make a difference under this more contentious system, but we should be warned against assigning heroic expectations to such reforms. After all, the federal landscape is littered with budget process reforms that, however well intentioned, make little or no difference to the real world of Congressional budgeting.

So, under what circumstances can budget rules changes make a difference? We have learned that the process rules that work best are those that reinforce political agreements that have been struck between the parties. Gramm Rudman taught us the folly of expecting budget process reforms to prompt leaders to make painful cuts before they are ready to embrace them. The Budget Enforcement Act of 1990 budget controls worked better because they enforced an agreement that had been made at the Andrew Air Force budget summit between party leaders on budget totals and deficit reduction.

Budget process reforms can play a useful role in protecting leaders from blame for making difficult choices. By tying the hands of decision makers, budget rules can provide politically compelling ways to fend off political pressures from the loud voices of contending groups in our system.

Moreover, there are times when processes such as points of order can help elevate the relative standing of fiscal sacrifice in comparison to other competing goals. Like most Americans, political leaders are ambivalent about budget choices – we want lower deficits in general but shrink from spending cuts or tax increases required to accomplish these broader fiscal goals. A point of order against breaching budget targets or ceilings, for instance, can help frame the political debate by reinforcing the salience of fiscal goals over other competing values and priorities.

No Budget, No Appropriations Rule

The proposed new rule attempts to reinforce the urgency of passing budget resolution by creating a higher bar against the consideration of appropriations bills in the absence of a budget resolution. While the current process provides for a point of order against this, it can be waived with a simple majority. The new provision would require 60 votes.

I think that the goal of this proposal is laudable. Consistent with the Congressional Budget Act itself, it would reinforce the principal that individual legislation should pass only after Congress provides an overarching fiscal plan and set of goals for spending and revenues.

The question is whether the stronger point of order would succeed in promoting agreement on budget resolutions. By making it more difficult to move appropriations bills, the theory is that this might create broader incentives to pass the budget resolution on time.

However, as discussed above, such a point of order may not be sufficient to overcome the deeply ingrained partisan divisions blocking agreement on high level fiscal policy these days. If the necessary 60 votes cannot be attained for proceeding, the question is what other effects this point of order may have. While Congress

could respond by passing budget resolutions, it might instead have the effect of hamstringing the passage of regular appropriations bills, leading to even greater reliance on continuing resolutions. A key question that needs clarification in this regard is whether continuing resolutions may also be blocked by this point of order. If so, then the new hurdle might precipitate an appropriations stand off, escalating the threat of a government shut down.

I doubt that such an apocalyptic outcome would actually occur. Often, the most profound effects of points of order are the informal leverage they give to some interests over others. The threat of holding up appropriations may in fact give leverage to those on the budget committee seeking greater leverage over the content of the resolution itself as well as the subsequent appropriations bills.

One potential outcome is that there may be a price for gaining the necessary 60 votes necessary to proceed on appropriations. This price could include higher spending in the budget resolution itself. Another potential outcome of increasing the stakes associated with passing a budget resolution is the passage of a resolution that fails to set decisive and challenging targets for discretionary spending. The point is that the future consequences of such a change may be wide ranging and difficult to predict.

The foregoing illustrates that the challenge of contemporary congressional budgeting involves balancing the whole against the parts of the budget. If the individual committees can move bills in the absence of agreement on the whole budget, then the fiscal position of the nation may very well be undermined.

However, this balancing act also be jeopardized when the whole – the budget resolution – is enacted at levels that are not sustainable by the parts – the committees.

Members of Congress and staff have pointed to budget resolutions in recent years whose discretionary totals have become primarily symbolic – enacted by members anxious to appear to be politically correct on overall fiscal policy, yet mandating a level of cuts to programs in subsequent appropriations that are simply not politically supportable. In these cases, the budget resolution may pass – but it loses its relevance and credibility as a guidance framework for subsequent decisions. As we learned in the surplus years, such budget ceilings will assuredly be undermined in the appropriations process if they are out line with prevailing political consensus. As Rudy Penner has observed, budget constraints and rules can only nudge Congress toward rationality; they cannot bludgeon Congress into it.⁴

In considering the proposed point of order, it is important to ensure that the appropriations committees are guided by fiscal policy. But in doing so, it is also

⁴ Rudy Penner, *Repairing the Congressional Budget Process* (Washington: Urban Institute, 2002)

important that the budget committees promulgate fiscal policy guidelines that are politically sustainable, lest they ultimately lose their legitimacy and leverage.

Joint Budget Resolution

Over the years, some have proposed a joint budget resolution as a way to cut through the gridlock between Congress and the President. The idea is that by involving the President up front in negotiating and approving a budget resolution, the subsequent budget process within Congress would be carried out more expeditiously. Budget resolutions and appropriations bills in compliance with the overarching targets would have a greater chance of gaining support on time, limiting the chronic uncertainty that has plagued federal budgeting in recent years.

In effect, the joint budget resolution would become a statute. The discretionary appropriations ceilings would become legally enforceable caps. Reconciliation could be mandated on the committees as part of this process. In fact, some envision that reconciliation actions could be included in this resolution, thereby skipping the engagement of committees in the process.

The prospect of a joint budget resolution is alluring indeed. If Congress and President can act together, our government would gain newfound clarity and capacity to resolve knotty fiscal challenges. Because it has statutory status, a joint budget resolution would have greater potential impact on other committees in the Congress, as well as the President himself.

As noted above, concurrent budget resolutions have all too often lately become symbolic expressions of fiscal policy, detached from the committees that must accept and implement this broad guidance in subsequent appropriations and authorization decisions. On the other hand, a joint resolution would have the standing to reunite the whole and the parts of congressional budgeting. Committees would have greater potential incentives to pay attention to the consequences of a measure that will have the full effect of a statute than they might to a congressional resolution.

Having said this, I am not optimistic that such a high-minded process would be workable in our system. It is ideal for a Parliamentary system. 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 our system of separation of powers and divided party control of government, the prospects for a front loaded agreement between Congress and the President are often dim.

The model for this process was the Andrews Air Force Summit that gave rise to the five-year budget agreement of 1990, along with the Budget Enforcement Act. Indeed, this proved to establish a multi year framework that was sustainable thanks

to the commitment of both the President and Congress of different parties to the fiscal goals underlying the agreement.

However, large agreements such as Andrews Air Force summits happen perhaps only once a generation. Indeed, several short years later, we returned to an era of highly partisan budgeting, featuring strongly partisan divides on budget resolutions and a government shutdown when the parties failed to agree on appropriations.

Far from streamlining and resolving budgetary conflicts earlier, it is likely that deep-seated divisions over fiscal policy would be moved around from the back end to the front end of the process. Gridlock at the front end would prevent Congress from going forward with appropriations as well as other mandatory and revenue actions it could take on its own under the concurrent resolution system.

This points to another concern I have with the joint resolution process. It deprives Congress of its own unique policymaking capacity to budget by inviting the President in at the front end. While many argue that this is a risk worth taking, I remain concerned that the President could, in effect, prevent normal congressional policymaking processes from going forward by refusing to agree to a joint resolution. At the very least, he would gain new leverage over congressional decisions, a prospect that would alter the balance of power in our system.

One constructive modification would retain the concurrent congressional budget resolution as a fall back. The Comprehensive Budget Process Reform Act of 1999, co-authored by Congressmen Nussell and Cardin, provided such a fall back procedure if the two branches failed to agree.⁵ This is certainly helpful, but the decision about whether and when to abandon the joint resolution process would be necessarily political, with potential to delay and derail the budgetary timetable.

Concluding observations

This Committee faces a series of important choices as it wrestles with the budget and the economy of today and the future. We now stand on the precipice of truly daunting fiscal challenges, both in the near and longer term. Fiscal retrenchment entails truly difficult choices both for the Congress and painful outcomes for the publics that you serve.

We have learned from other nations, and from our own states and cities, that hard fiscal times often inspire a more centralized budgetary decision making process. Such a process needs to be empowered to make tradeoffs across the entire budget, and have the leverage and credibility to force the many claimants to play by new rules. Indeed, the new Joint Select Committee on Deficit Reduction shows that even the decentralized Congress has seen fit to create a new centralized institution to muster consensus necessary to meet new deficit reduction targets.

⁵ H. Rept. No. 198 (Part 2), 106th Cong., 1st Sess. 3 (1999).

I fear that the current budget process needs help in dealing with this challenging task. The budget resolution has become more symbolic than real – a way of expressing the views of a party or faction, of demonstrating a position, rather than a realistic set of constraints. In fact, this symbolic role has resulted in targets that are not enforceable, leading to supplementals, continuing resolutions and other devices to reconcile symbolic deficit reduction with other priorities members have. I fear that the committee does not have the standing or leverage with other committees to force the kinds of hard choices necessary in the future.

The process also does not serve as a vehicle to drive a more comprehensive review of priorities across federal programs and funding tools. Ideally, achieving our macro fiscal goals should be driven by a process which encourages policymakers in Congress and the Executive to focus on weak claims, not weak claimants as one former budget director stated.

As we think about the priorities of government, it has become more apparent that the important goals and objectives of policy cut across the narrow confines of budget accounts, bureaus, and congressional committees. For instance, nearly one half of the budget authority for homeland security is provided by numerous agencies outside the Department of Homeland Security. Indeed, most of the major missions of government transcend the boundaries of the federal government itself, requiring partnerships with state and local governments, nonprofit organizations and private for profit firms. GAO's work points to systemic fragmentation and overlap across government agencies and programs serving common objectives.

We know that we will have to make hard choices involving spending and revenues in the relatively near future to confront these fiscal challenges. A performance assessment process may help lay the groundwork for making choices that not only resolve underlying fiscal deficits but also promote improved performance by reexamining existing program commitments. Ideally, such a process would consider the entire portfolio of federal programs and activities addressing similar goals and outcomes, including mandatory and discretionary spending as well as tax expenditures.

There are profound institutional barriers to making tradeoffs between spending programs across different agencies and committees. While the declining share of budgets devoted to discretionary spending are reviewed each year, periodic reviews of mandatory and tax expenditure programs are generally not encouraged. Tradeoffs between spending programs and tax expenditures are strongly discouraged, even though both tax credit and spending programs both address

common purposes such as financing higher education, child care, job training, low income housing and research and development.⁶

The budget committees were established precisely to lead and coordinate crosscutting assessments of budgetary choices. The Budget Committee not only has a government-wide perspective, but also uses budget functions as building blocks for the budget resolution. Functions and subfunctions serve as proxies for broad missions or goals that can be the foundation for systematic performance assessments of the myriad of programs and tools addressing each mission. Moreover, the annual budget focus gives these Committees a routine responsibility that can be coupled to the performance assessment process.

My hope is that the Congress would adopt a systematic performance based review process linked to the budget process. The Budget Committees could be the vehicle to accomplish this by reporting out a “congressional performance resolution” as part of the budget resolution. Such a resolution could be the vehicle to engage the full Congress in debate over those areas most ripe for review and assessment each year

I recognize that this is a heavy lift for this, or any committee of the Congress. To make it work, the budget committees would have to become leadership committees, with membership from the leaders of the other major committees of the Congress. This was in fact a recommendation of the Peterson-Pew Commission on Budget Reform, a group that I served with as a consultant.⁷ The hope is that, as Phil Joyce has written, such a “supercommittee” would increase the ownership of the other committees in budget targets and restraints that they help set. ⁸

That concludes my statement. I would be happy to answer any questions the Committee may have.

⁶ U.S. Government Accountability Office, *Government Performance and Accountability: Tax Expenditures Represent a Substantial Federal Commitment and Need to Be Reexamined*, GAO-05-690, 2005.

⁷ Peterson-Pew Commission on Budget Reform, *Getting Back to Black*, November, 2010.

⁸ Phil Joyce, *Strengthening the Budget Committees: Institutional reforms to promote fiscally responsible budgeting in Congress*, (Washington: Pew, January, 2011)