Statement of

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On “Improving the Congressional Budget Process”

Chairman Conrad, Ranking Member Sessions and Members of the Committee:

I am pleased to be here today to talk to you about ways in which the budget resolution could be made more effective. This is an important topic, as I believe the country needs a strong Congressional budget process, and this means an effective budget resolution and Budget Committees. My testimony will cover two main topics. First I will discuss a specific reform of interest to many members of this committee, which is making the budget resolution into a joint resolution, requiring the President's signature. Second, I will address other possible institutional changes and sanctions that might make it more likely that the budget resolution would be successful in meeting its original aims under the Congressional Budget and Impoundment Control Act of 1974.

Historical Background

Before moving on to considering specific reforms, it may be useful to remind ourselves of the historical context in which the budget resolution was established. The Congressional Budget and Impoundment Control Act of 1974 intended to coordinate budgeting decision-making in Congress as it never had been before. The theory behind this coordination was that the budget resolution would allow Congress to set overall fiscal policy and adhere to fiscal discipline. The Budget Committees, created to manage the budget resolution, were charged with being the guardians of overall fiscal policy in Congress. Further, and this seems particularly important to remember in the context of the issues under consideration today, the 1974 budget reform was intended to strengthen the role of the Congress in the budget process, particularly in the face of expansions of presidential power.

After some early growing pains, the budget resolution clearly established itself as the means by which Congress decided on overall fiscal policy. Moreover, it represented an important vehicle through which Congress, when it wanted to (or was encouraged by the president) enacted legislation to enhance fiscal responsibility, mainly through the use of the budget resolution's reconciliation procedures. Reconciliation was front and center when important deficit-reducing legislation was passed and signed into law in 1990, 1993, and 1997. More recently, however, the budget resolution process has become dysfunctional. Three problems stand out:

- Congress has fallen into a pattern where the budget resolution is viewed as optional. This is a striking departure from past practice. From the advent of the budget resolution in fiscal year 1977 through fiscal year 1998 (that is, the first 22 years), there was *always* a budget resolution, although these resolutions were frequently late. Since fiscal year 1999, however (a span of 14 years, including this year), on *six* separate occasions (that is, more than 40 percent of the time) Congress has failed to adopt a budget resolution at all. This represents not only a failure of Congress generally, but suggests that the

Budget Committees lack the clout that is necessary to treat the budget resolution as the imperative that it should be.

- While the budget resolution was used to impose or promote fiscal discipline in a few notable cases, especially during the 1990s, it has since 2001 been used to make deficits larger.

- Even when the budget resolution was used to impose fiscal discipline on other committees in Congress through the use of the reconciliation process, this was usually done without much enthusiastic support from these other committees. Deficit-reducing actions in one year might have been followed by attempts to undo this deficit reduction in subsequent years.

Numerous commissions and independent groups have highlighted the need for the country to confront both medium- and long-term federal budgetary challenges.[1] In the context of doing so, it is vitally important for Congress to have a budget process—and budget institutions—that can foster the kind of decisions that will enable the country to meet those challenges. The budget resolution, in its current incarnation, seems not up to this task. If it is to work effectively, the Budget Committees should be able to lead other committees to take deficit-reducing actions that are contrary to the immediate political interest of committee members and their constituents.

No institutional or process change will stabilize the debt. That will require hard policy choices to increase revenue and decrease spending. Process changes might, however, make the Congressional budget process more functional once we have reached a point where the debt has been stabilized. The purpose of considering a reform of the budget resolution or Budget Committees is to determine whether they might, going forward, be more institutionally capable of realizing the promise envisioned by the 1974 budget reform that created them.

Would a Joint Budget Resolution Improve Things?

At present, the budget resolution is a concurrent resolution, which means it represents a set of rules designed to guide congressional action, but does not require the president's signature. The main argument for a *joint* budget resolution (JBR), which would require the president to agree, is that it would facilitate negotiations between the president and Congress early in the budget process, at

[1] These include the President's Deficit Commission, the Bipartisan Policy Center, and the Peterson-Pew Commission on Budget Reform. For an example of recommendations focusing on the budget process, see Peterson-Pew Commission on Budget Reform, Red Ink Rising (Peterson-Pew Commission on Budget Reform, 2009); Peterson-Pew Commission on Budget Reform, Getting Back in the Black (Peterson-Pew Commission on Budget Reform, 2010).

least on broad outlines of the budget. This would be a positive event if it occurred.[2] Further, in our system, presidents have tended to be the actors in our system in the best institutional position to lead.[3] There are some examples (in 1990 and 1993) of deficit reduction heavily influenced by a presidential decision to pursue fiscal discipline, thus there is some appeal in the notion that involving presidents earlier would promote responsible budgeting. For a joint budget resolution to work, it requires negotiation up front on the broad outlines of a policy that promotes fiscal discipline, and then follow-through by committees that translate this broad outline into specific policies to realize the budget resolution.

In considering the pros and cons of the joint budget resolution, I would like to focus on the effects that the reform might have on three things:

- institutional power and relationships;
- the timeliness and efficiency of the process; and
- fiscal discipline.

Institutional Power and Relationships. According to proponents, a joint budget resolution would facilitate agreement between the President and the Congress early in the budget process, at least on the big picture. Presently, the President has no formal role, and no formal means for preventing the Congress from enacting a budget different from his own proposal, until appropriation bills and other substantive legislation reach his desk. Under a joint budget resolution, the Congress would not be prevented from sending the President a budget not to his liking. However, any President faced with such an outcome would almost certainly veto that legislation. The net result of such a presidential veto would be that the President's budget would stand as the only unified statement of national priorities. This would represent a return to conditions that prevailed prior to the 1974 Budget Act.

I am concerned that requiring 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. It is obviously up to you and your colleagues whether you want to go back to a time where the President is clearly ascendant. My advice, however, is that advocates of more Presidential power would be wise to contemplate the implications of increased Presidential power being exercised not by

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[2] Roy Meyers, "The Budget Resolution Should be a Law," *Public Budgeting & Finance* 10, Number 3 (Fall 1990), pp. 103-112.
[3] Louis Fisher, "Federal Budget Doldrums: The Vacuum in Presidential Leadership," *Public Administration Review* 50 (1990), 693–700.

an executive whose policies they embrace – but one whose policies they strongly oppose.

Timeliness and Efficiency. The adoption of the budget resolution, a given from 1975 to 1998, has become a hit and miss proposition. If a joint budget resolution worked as advertised, it would improve the timeliness of the process by facilitating agreement earlier in the Congressional session. Earlier agreement between the President and Congress is undoubtedly a desirable outcome.

The real question is whether a joint resolution makes adoption of the budget resolution in a timely manner more likely to occur. I don't think so. In years in which the President and the Congress are inclined to agree with each other on the outlines of the budget, I don't think requiring the President's formal approval will change much. To state what is undoubtedly obvious, history demonstrates that periods of unified government are much more likely to result in agreement between the President and Congress than periods of divided government. During periods of unified government (that would represent 8 of the 37 years between 1975 and 2011), therefore, a joint budget resolution would be unlikely to influence timeliness of the budget process, in either direction.

Alternatively, if the President and the Congress do not agree on even the broad outlines of policy (as seems likely during periods of divided government—the other 29 years since 1975), requirement for a joint budget resolution could stop the budget process dead in its tracks. To the extent policy and priority conflicts define Presidential-Congressional relations, a joint budget resolution would simply front-load those conflicts, increasing chances that the budget resolution would be delayed, or worse, precluded. The net outcome would be that a problem of relatively recent vintage (failure to agree on a concurrent resolution) would be exacerbated – and institutionally enshrined – by requiring a joint resolution. The probability that the process could be halted by the failure to gain the President's agreement is lessened by the provision in some joint budget resolution proposals for a concurrent resolution as a fallback should the joint resolution process fail.

The bottom line is that I do not believe that a joint resolution itself would improve the timeliness of the process. In years in which the President and the Congress agree, current informal communications accomplish what is necessary. In years in which agreement eludes the branches, Presidential involvement would be far more likely to slow the budget process, not render it more timely.

Fiscal Discipline. One lesson emerging out of the past 37 years of Congressional budgeting is that Presidents tend to drive budgetary agendas. A further lesson is that the Congress is unlikely to lead if inflicting budgetary pain is involved. This seems to suggest that if a President cared about fiscal discipline (like the first President Bush or President Clinton), a joint budget resolution would make it easier for that President to move the Congress in the same direction. If, on the other hand, a President desired policies that would likely expand deficits (such as President

Reagan, the second President Bush, or even President Obama), having a joint budget resolution would also make that easier. On this last point, it is worth noting that neither President Reagan nor the second President Bush seemed to have any trouble enacting policies increasing the deficit, even WITHOUT a joint budget resolution.

Absence of unequivocal benefits notwithstanding, I do think a joint budget resolution with the force of law might strengthen enforcement in narrow circumstances. Enhanced enforcement would facilitate adherence to the budget resolution in consideration of subsequent legislation. Thus, in cases where the joint budget resolution was used as a tool of fiscal discipline, it would make that discipline easier to achieve.

On the other hand, the budget resolution could also be used in a way that compromised fiscal discipline. For example, the discretionary spending caps that were just enacted as part of the Budget Control Act of 2011 could not be changed by a concurrent resolution on the budget. If the budget resolution was a joint resolution, however, these and other budget enforcement procedures could be changed annually as part of the budget resolution process. Moreover, there would be great pressure to change law as part of the budget resolution, particularly if it were seen as "must pass" legislation. This means that the budget resolution might attract many legislative proposals, at least some of which (based on historical precedent) would add to deficits.

A joint budget resolution, therefore, could either enhance or detract from fiscal discipline, depending largely on the underlying goals of the Congress and President. It would likely improve it *only* at times when commitment already existed to moving the country in that direction.

Conclusion. In responding to a question about the messiness of the federal budget process, I once heard a colleague reply: "Monarchy budgeting is easy". The framers of the 1974 Budget Act, I believe, were fundamentally on target in their desire to push back against executive power. They devised a concurrent budget resolution to give the Congress an opportunity to formulate a budgetary agenda that would compete with the budgetary vision articulated in the President's budget. I think that, if it worked well, a joint budget resolution could improve fiscal discipline and the timeliness of the process. I am, concerned, however, that more frequently it would not work well, and that relatively limited advantages would come with too large a cost in terms of enhancing Presidential power. I am not yet ready to advocate enacting a reform that will give Presidents—who tend to be willing to augment the power of the office, especially in recent years—more leverage in the budget process.

What Other Changes Might Make the Budget Resolution More Effective?

In addition to the possibility of a joint budget resolution there are other changes that might be made to either increase the odds that the budget resolution would be enacted and enforced to begin with, or that it would be followed once it was enacted. I will emphasize a particular reform that I have spent some time examining, which involves changing incentives by changing the membership of the Budget Committees themselves.[4] I will follow this with a brief discussion of other sanctions and incentives that might be used to encourage Congress to use the budget process in the way in which it was intended.

Changing the Membership of the Budget Committees. Some people have suggested that it might be possible to increase the odds of the budget resolution being adopted and followed if the Budget Committee membership was more reflective of the leadership of the Congress.

Starting in 1987, Kansas Senator Nancy Landon Kassebaum introduced a resolution (applying to the Senate only) that would have created leadership committees in the Senate to replace the Budget Committees. The Kassebaum proposal would have created a Senate Committee on National Priorities, with responsibility for drafting the annual budget resolution, which would then still need to be passed by the whole Senate. Senator Kassebaum proposed that this committee consist of the chairs and ranking members of all Senate committees, except that the majority leader of the Senate would have had the authority to appoint up to five additional senators to serve on this committee in order to make its membership mirror the relative balance between the majority and minority parties in the Senate (some versions of this idea envision an identical number of Republicans and Democrats on the committee). This proposed legislation would also have abolished the Appropriations Committee by combining authorizations and appropriations into single committees by substantive area.

The second report of the Peterson-Pew Commission on Budget Reform, *Getting Back in the Black,* explicitly embraced a change in Budget Committee membership as a part of a broader set of reforms designed to develop a multi-year plan to achieve budget targets. Ultimately, the Budget Committees would include "House and Senate leaders and the chairs and ranking members of both the appropriations and revenue committees and other major authorizing committees".[5] This recommendation would clearly be targeted toward making it more likely that the Budget Committees would be invested in the fiscal goals that had been agreed to and would be committed to carrying out those goals in the subsequent legislation that would be crafted.

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[4] For more details, see Philip Joyce, *Strengthening the Budget Committees: Institutional Reforms to Promote Fiscally Responsible Budgeting in Congress* (Pew Charitable Trusts 2011).

[5] Peterson-Pew Commission on Budget Reform, *Getting Back in the Black*.

In considering the possible changes that might result from changing Budget Committee membership in this way, we return to three problems with the current budget resolution discussed earlier—budget resolution adoption, fiscal responsibility, and committee buy-in to the budget process.

1. Would reforming Budget Committee membership make it more likely Congress would adopt a budget resolution every year? If congressional leaders, including committee chairs and ranking members, are on the Budget Committees, a potential additional imperative for consideration and passage might occur. *That is, if the resolution was explicitly a responsibility of the leadership, the failure to adopt might be seen as an explicit failure of the congressional leadership.* This would presumably carry greater political weight than the failure of one of the Budget Committees to pass a budget resolution does at present. There would be a downside to this, not the least of which would be a decline, because of time constraints, in the capacity of the Budget Committees to hold hearings on behalf of Congress to inform future fiscal policy and educate both Congress and the public. It seems more likely that the Budget Committees would gear up when there was significant legislation being considered, but otherwise would be dormant.

2. Would the reform make it more likely that a budget resolution would take a fiscally responsible stance? Historically, fiscally responsible budget resolutions—as those adopted in 1990, 1993, and 1997—occur as a result of presidential and congressional leadership, leading to cooperation between the two branches. Fiscal responsibility usually involves taking away benefits from people who do not want to lose them or imposing taxes on people who do not want to pay them. It seems essential that it begin with an agreed-upon fiscal goal.[6] Absent agreement on a goal and the commitment of the president and congressional leaders to achieving it, it is folly to expect that the Budget Committees, however constituted, can force Congress and the president to adopt a fiscally responsible stance. Thus the crucial, preceding step is agreement on this goal. Once the goal is agreed upon, it is presumed that the president and Congress will feel politically pressured to adopt budget policies that are consistent with that path. This is not necessarily related to the Budget Committee membership model chosen.

3. Would reform of the Budget Committees make it more likely that those whose legislative assent is necessary would support reconciliation instructions to reduce the deficit? From the beginning, the congressional budget process has been notable for the tension that it has created between the Budget Committees and other committees in Congress. This was initially reflected in an effort to keep the Budget Committees relatively weak. Initially, in fact, the Budget Committees were seen by some of the early 1970s budget reformers as little more than extensions of the

[6] The Peterson-Pew Commission on Budget Reform, in its Getting Back in the Black report (2010) suggested a goal of stabilizing the debt at 60 percent of GDP.

appropriations and tax-writing committees. As the membership of the Budget Committees expanded to include more junior members and those from committees other than Finance, Ways and Means and Appropriations, this carried with it increased inter-committee tension. This tension is particularly evident in reconciliation, where the budget resolution sets targets and provides instructions to authorizing committees, which need to follow these instructions in good faith in order to promote a fiscally responsible path.

For the Budget Committees to work as intended, they must convince other committees to go along with an overall vision for the budget, as defined by the budget resolution and reconciliation. By explicitly including the chairs and ranking members of appropriate committees as members of the Budget Committees, these members would presumably have ownership of the budget resolution, which would make them more likely to take seriously the necessity to go along with it. In addition, the leadership would be held accountable for overall fiscal outcomes to a greater extent than is currently the case, since they will have a clear responsibility for the resolution.

Perhaps the most important point is this: Regardless of whether the resolution itself is more likely to be adopted under this new structure, *or* whether it is more likely to be fiscally responsible, the inclusion of the leadership on the Budget Committees is likely to smooth the translation of the budget resolution targets into the necessary legislation to meet those targets, *and* to promote future adherence to the path agreed upon in the budget resolution. Therefore, the most reliable positive impact of the reform would be to increase the ownership of other key congressional committees of the budget resolution and its vision for fiscal policy. This would have the greatest impact during years in which reconciliation is used to convert the budget resolution targets into legislative actions to increase taxes and cut spending.

Other Incentives for Adoption. Absent a change in membership of the Budget Committees, are there particular sanctions or other incentives that might encourage the Congress to adopt a budget resolution?

Even with the membership change discussed above, Congress does not have incentives to pass the budget resolution—particularly one that inflicts budgetary pain in pursuit of deficit reduction—unless there are some repercussions for failing to do so. What kinds of negative sanctions might encourage adoption?

- If the failure to adopt a budget resolution much more clearly impacted the ability to pursue other legislation—especially appropriation bills—then the overall Congress is likely to pay more attention to its passage. Currently, in the House, appropriation bills can begin to move on May 15th even without a budget resolution. This "fail-safe" means that many may believe that there is no real consequence for failing to enact the resolution. Further, the Senate tends to not enforce the point of order against consideration of appropriation bills in the absence of a budget resolution.

- In addition to, or instead of the above, new points of order, requiring supermajorities in both houses to waive, could be created against any legislation that CBO says increases spending or decreases revenues, in absence of a budget resolution.

- Even more substantial incentives might be created if automatic tax increases or spending cuts were triggered by the failure to enact a budget resolution prior to some specific date, or prior to the beginning of a particular fiscal year. If failure to adopt a budget resolution triggers an alternative that is sufficiently abhorrent to Congress (on both sides of the aisle) it will create an incentive to reach agreement.

These are only three possible suggestions. They are by no means an exhaustive list. The important point is that, unless there is some consequence for failing to enact a budget resolution, and it affects something that a broader cross-section of the Congress actually cares about, it is unlikely that the Congress has the incentives to improve its recent, rather dismal budget resolution record.

Conclusion

Historically, the budget resolution has only been relevant when there was a broad commitment toward some particular budget policy. That budget vision might come from the president, as it has periodically. In addition to (and perhaps even instead of) the president taking the lead, leadership may come from within Congress. Making the budget resolution into a joint resolution seems like unilateral Congressional disarmament. It seems more fruitful to attempt to determine what institutional factors or other incentives could promote more effective functioning of the concurrent resolution process that already exists. There are no procedural hurdles that prevent the Congress from acting today. If the Congress believes some change needs to be made, it might be more fruitful to think through the incentives and sanctions that might be used to encourage the current process to work more as intended, rather than shifting more power to the President.