

NEWS ANALYSIS

Budget Process Broken, but Few Fixes Pass GOP Litmus Test

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Any lawmakers still unsure whether the congressional budget process needs some serious tinkering may want a quick lesson in budget statistics. They can start by looking at the last 10 years' worth of figures.

Since 1995 Congress has failed to clear the yearly budget resolution three times, passed more than 75 short-term funding extensions, shut down the government for 27 days, been forced to finish the appropriations process in an omnibus package nine times, and transformed historical budget surpluses into record-setting deficits.

In the heat of the latest appropriations debacle, outspoken conservative Sen. John McCain, R-Ariz., declared, "This process is broken."

And he was not alone.

Yearly appropriations have increasingly been turned into huge, last-minute omnibus packages that are forced through Congress with little time for analysis. Members of both parties became exercised over this year's omnibus spending package when a Democratic member identified a single clause in the almost 14-inch-thick document that would have loosened tax return disclosure rules. In protest, House Minority Leader Nancy Pelosi, D-Calif., postponed a vote to strike the sentence while lawmakers criticized the budget process to an extent not seen since former President Bill Clinton and a Republican Congress were shutting down the government in the 1990s.

"It is a terrible way to do business," said Senate Appropriations Committee Chair Ted Stevens, R-Alaska.

"I do not know if there will ever be a better example of what can go wrong with this nefarious process," said Sen. Robert C. Byrd, D-W.Va., the Appropriations Committee's ranking minority member.

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With the possible exception of the tax code, few government processes receive as much criticism as the budget. The groundswell in the last year of negative opinion, mounting deficits, and recent

budget failures could result in a reexamination of the federal government's accounting practices.

And then again, maybe not. Consider that Republican leadership is counting on an entirely different set of numbers — 55 Republican senators, 233 Republican House members, and 1 Republican president.

After canvassing many individuals involved in the congressional budget process both past and present, Tax Analysts uncovered one consistent theme: Don't expect the Republicans to tie their own hands with any rule changes that could block an ambitious 2005 agenda. If budget process reform is possible, Republicans want that reform to accommodate efforts to permanently extend the 2001 and 2003 tax cuts, repeal the estate tax, fix a growing problem with the alternative minimum tax, and possibly add private accounts to the Social Security program.

'At the end of the day, it's Congress's job to control spending. We shouldn't be looking for ways to save us from ourselves,' Spicer said.

"They're not serious about fiscal discipline, they're serious about moving their agenda," said one Democratic House Ways and Means Committee aide.

Without even accounting for a change to Social Security, GOP tax proposals alone could cost upward of \$1.5 trillion over 10 years, according to some estimates. Any budget reforms designed to curb the deficit — from "pay as you go" rules to mandatory deficit reduction targets — would likely make such Republican efforts more difficult.

"My guess is that one reason the administration won't push for budget reform is that they don't know how to accommodate that massive agenda within a budget that appears to be moving to balance," said House Budget Committee ranking minority member John M. Spratt Jr., D-S.C., in a recent interview with Tax Analysts.

Veto Power

If anything, President Bush is eyeing a reform that would make his job easier.

"I would like to see the president have a line-item veto again, one that passed constitutional muster," Bush announced just days after his reelection.

Both House and Senate Budget Committee chairs have indicated they would be willing to move line-item veto legislation if Bush could find constitutionally acceptable language, but neither is looking to champion the cause.

“Right now we’ve got our hands full dealing with the budget,” said Sean Spicer, spokesman for House Budget Committee Chair Jim Nussle, R-Iowa, in an interview with Tax Analysts. “At the end of the day, it’s Congress’s job to control spending. We shouldn’t be looking for ways to save us from ourselves.”

Line-item veto power was first given to Clinton in 1996. It allowed the president to sign a bill into law and then cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The Supreme Court struck down the measure just two years later.

“If the Line Item Veto Act were valid, it would authorize the president to create a different law — one whose text was not voted on by either house of Congress or presented to the president for signature,” the Supreme Court decision read.

Washington policy analysts interviewed by Tax Analysts largely agreed that not only would a constitutionally acceptable line-item veto be impossible to create, it wouldn’t even be effective in controlling the deficit.

Robert Bixby of the Concord Coalition said a line-item veto would give the president more political leverage, but because it can only be used to strike earmarks, “you probably wouldn’t get a huge saving from it.”

“As Judge Robert Bork said, if the constitution permitted a line-item veto, somebody would have noticed it in the last 220 years,” Spratt told Tax Analysts. “I think it’s a lot of power to give to a president. It could be used politically.”

Freeing ‘Legislative Logjam’

With the line-item veto an unlikely engine to drive budget reform next year, former Senate Budget Committee Chair Pete V. Domenici, R-N.M., is trying to resurrect biennial budgeting.

Domenici sent a letter to his colleagues in November calling for two-year budgeting to free up a “legislative logjam.” According to Domenici, nearly 70 percent of all votes in 2000 were spending- or budget-related. (For the letter, see *Doc 2004-23325* or *2004 TNT 237-21*.)

“With what we’ve gone through for the third time in a row — no blame on anybody — wouldn’t you think it would be time to take up the very important issue of two-year budgets and two-year appropriations?” he asked.

Biennial budgeting has drawn a substantial measure of support in the past. Domenici’s 1999 bill on the issue attracted 36 cosponsors, although it never reached the floor for a vote.

But despite Domenici’s renewed aspirations, it appears the effort still lacks momentum.

“It’s a great theory, but in reality it’s not going to happen,” Spicer said. “How can you plan two years ahead when it’s hard enough to plan one?”

Spicer pointed out that budget projections often change dramatically in a matter of just months.

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“You exchange one set of problems for another,” said Robert Greenstein, executive director of the Center on Budget and Policy Priorities. The only thing a biennial budget would produce, he added, is “a plethora of supplementals and a budget less attuned to needs.”

“If they have two years to fight about the budget, they’d fight for two years,” said William G. Gale, codirector of the Tax Policy Center. “There’s nothing inherently wrong with the budget calendar we have now.”

Appropriators are also unlikely to give up the power to dole out goodies to their districts each year.

Pay-Go Again

If biennial budgets and the line-item veto are to be ignored next year, the focus would again return to a familiar battle over the pay-go rules that were allowed to expire in 2002.

First adopted in 1990 under former President George H.W. Bush, traditional pay-go rules require any spending increases or tax cuts to be offset by a decrease in spending or increase in taxes. This past year’s budget resolution failed when several Republican senators balked at the administration’s plan to enact pay-go rules that would have applied only to spending. The disagreement is no closer to being resolved now.

A few Republican lawmakers continue to agree with the Democratic insistence that any one-sided budget enforcement rules are impractical.

“It’s pointless. Almost any form of spending you can turn into a tax cut,” a Democratic Ways and Means aide said. “The reality is you’ll end up with more spending through the tax code, which means more complexity and more unfairness.”

But Republicans remain resolutely opposed to blocking their own tax agenda with full pay-go rules. An aide for Senate Finance Committee Chair Charles E. Grassley, R-Iowa, said the senator believes a fix for the alternative minimum tax and permanent extensions of the 2001 and 2003 tax cuts should not need to be offset.

The current structure of the AMT is wrong and unintended, the aide said, and permanent extensions of the Bush tax cuts would leave federal tax revenue at a historically fair 18 percent to 19 percent of gross domestic product.

Most policy analysts contacted by Tax Analysts predicted another stalemate next year over the budget process. And that's just fine with a number of lawmakers who said they do not believe the process is the problem at all.

"I don't think you need a rules change," said Finance Committee ranking minority member Max Baucus, D-Mont. "It requires an attitude change. It's that simple."

"It should start with the president of the United States," Spratt said. "If he wants to do something that's truly bipartisan, it should start with him and his commitment to making the process work."

The two budget committee chiefs also appear to be unmoved by the prospect of budget process overhauls. Nussle tried and failed last year to clear pay-go rules in a bill shot down by Republican appropriators. And incoming Senate Budget Committee Chair Judd Gregg, R-N.H., is more concerned with next year's budget resolution than any budget reform effort.

"That's a parallel track to passing the budget, and I don't think it has to be passed before the budget," Gregg said. "But we should put it back at some point."

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Spicer said many lawmakers do not truly believe the process is broken. "It's a nice catchphrase to throw around," he said. "But when you stop and look at it, what went wrong?"

Spicer noted that the House passed both its budget and the budget resolution conference report, and then stuck to its spending levels. He said lawmakers didn't ultimately need a budget to complete their work. He won't be holding his breath for a process bill this year.

"I just don't know where it fits into the agenda," said Spicer. ■

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