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Budget Reform  
and  
The Budget Enforcement Act of 1990

by

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# NAVAL POSTGRADUATE SCHOOL

## Monterey, California



# THESIS

BUDGET REFORM  
AND  
THE BUDGET ENFORCEMENT ACT OF 1990

by

Kathy Reading Moore  
December, 1991

Thesis Advisor:

Professor Jerry L. McCaffery

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## ABSTRACT

In theory, the budget process provides multiple opportunities to articulate claims and ration resources in a methodical and rational manner. However, the American federal budget process of the 1980's was, in reality, far different from the procedural tranquility theory might suggest. This thesis studies the perceived need for reform of the federal budget process. It examines the proposals of the Executive Branch, of the Legislative Branch, and of selected experts on budget theory. The process, as enacted in the Budget Enforcement Act of 1990, is examined. The enactments are compared with the proposals for procedural reform and an assessment of which faction was in closest agreement is provided.

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## I. INTRODUCTION

### A. BACKGROUND

In theory, the budget process provides multiple opportunities to articulate claims and ration resources in a methodical and rational manner.<sup>1</sup> However, the American federal budget process of the 1980's was, in reality, far different from the procedural tranquility theory might suggest. Presidential budgets were pronounced "dead on arrival" in Congress. Congress itself was politically divided for the first time in 50 years. As the result of the 1980 election, the House of Representatives was controlled by the Democrats and the Republican Party had control of the Senate. [Ref. 1: p. 120] Budget responsibilities took an increasing amount of time and attention, at the expense of other legislative activities. Stalemates over fiscal policy and budget priorities caused missed deadlines. The regular appropriations process had been replaced by Continuing

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<sup>1</sup> See Allen Schick, The Capacity to Budget, (Washington, D.C.: The Urban Institute Press, 1989), Chapter 1, for a summary of the policy and procedural crisis in federal budgeting.

Resolutions and omnibus reconciliation packages. There was clear evidence that the budget process was breaking down.<sup>2</sup>

This breakdown has been attributed to the persistent budget deficit, especially with regard to the inability of government to ration federal resources that had become so scarce. The infighting within Congress, and between Congress and the President, for these resources has destroyed both the regularity of the process and the traditional roles of not only the various agencies, but of the branches themselves. Furthermore, the focus on the deficit has encouraged the use of budget gimmickry by both the Executive and Legislative Branches to create the illusion of compliance with the deficit reduction targets required by the Gramm-Rudman-Hollings laws, (GRH I and II).

Two decades of budget changes failed to produce a process that could solve the problem of the reality of the economic situation or resolve the political conflicts in Washington. There was a clear consensus that the Congressional Budget and Impoundment Control Act of 1974, as amended by GRH I and II, was an inadequate framework within which the difficult budget issues of the 1990's could be resolved. However, the question as to how the process should be reformed was not as easy to answer as it was to reach the agreement that reform was

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<sup>2</sup>There is a huge literature on the breakdown of the budget process. An excellent discussion may be found in Allen Schick, The Capacity to Budget, (Washington D.C.: The Urban Institute Press, 1989), chapter 6.

needed. Much of the disagreement can be attributed to the debate over which branch should control the "purse strings" of the Government. Any reform with the potential to make major changes in the balance of power, Congress versus the President, was inherently contentious, with support depending heavily on institutional and partisan loyalties.

The Congressional role in budgeting is clearly established by the United States Constitution (Article I, Section 9), which states: "No money may be drawn from the Treasury but in Consequence of Appropriations made by Law." The Framers of the Constitution created a system of "checks and balances" and deliberately sought to restrain the executive by limiting its funds. "Only Congress can authorize the government to collect taxes, borrow money, and make expenditures. The executive branch can spend funds only for the purposes and amounts specified by Congress." [Ref. 2: p. 43] The President's role in the budget process was expanded by the Budget and Accounting Act of 1921 to include annual preparation of the executive budget. It is submitted early in the year and serves to articulate to Congress and the nation the Administration's priorities and future policy commitments.

The 1974 Budget and Impoundment Act was not intended to reduce the deficit or to change federal spending priorities. It was enacted at a time when the deficit was relatively small and there was limited concern about its size. [Ref. 3: p. 18] Instead, the purpose of the law was to introduce the

discipline of a timetable for various phases of the congressional budget process. Compliance with the schedule would result in the debate occurring systematically. It was also intended to provide accountability for budget decisions through procedures which reconciled taxing and spending with the actual budget totals. In essence, Congress would make the details of programs conform with the totals it had chosen.

The Act attempted to rationalize and centralize budget power in Congress. Instead, that power was further dispersed and decentralized by the creation of the House and Senate Budget Committees. The Budget Committees were created to oversee the budget process and to set spending and revenue targets for the authorizing committees in an annual resolution.

In addition to the budget committees, the 1974 Budget and Impoundment Act created a third entity, the Congressional Budget Office (CBO) to assist the House and Senate Budget Committees. It was established to provide its version of the economic forecasts and projections to be used by the committees and to serve as a scorekeeper for monitoring Congressional spending decisions and revenue actions. According to Senate Budget Committee Chairman Pete V. Domenici, R-N.M.:

The core services which we in Congress have come to expect of CBO have been the provision of cost estimates of bills, scorekeeping reports, economic forecasts and 5-year projections, the analysis of the president's budget in its session review, alternative budget reduction strategies

and more detailed analysis of particular problems and Federal activities. [Ref. 4: p. 1]

The 1974 Budget Act's impoundment provisions are also critical to this study. A new procedure formalized and limited impoundment.<sup>3</sup> Congress could review and control the use of impoundments by the President. This reform was included to limit the President's power to control spending, in particular, President Nixon's impoundment of funds for programs he did not like. Prior to this, Presidents had routinely withheld funds for administrative reasons. [Ref. 5: p. 1393] This tool was based on an understanding that when an appropriation was no longer necessary or became unserviceable, the President did not have to spend it, providing Congress concurred. By refusing to spend billions of dollars in appropriations he disliked, President Nixon used impoundment to "...rewrite national policy at the expense of Congressional power and intent." [Ref. 6: p. 12]

As a result of the 1974 Congressional Budget and Impoundment Control Act the President could either defer the use of funds unless disapproved by either the House or Senate or propose the rescission of appropriated funds.<sup>4</sup> "A

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<sup>3</sup>Impoundment is a generic term referring to any action or inaction by an officer or employee of the U.S. Government that precludes the obligation or expenditure of budget authority in the manner intended by Congress.

<sup>4</sup>Deferral of budget authority is the action by the Executive Branch that delays the obligation of budget authority beyond the point it would normally occur. The President must provide advanced notice to the Congress of any

rescission is an executive branch recommendation to cancel Congressionally approved spending for a program." [Ref. 2: p. 63] It cancels budget authority before the time when the authority would otherwise cease to be available for obligation. Rescission would take effect only if enacted into law within 45 days after being proposed. Unless both houses approve the rescission, the President must release the funds.

In sum, the 1974 Congressional Budget and Impoundment Control Act institutionalized the power of Congress in the budget process. Through the budget resolution it provided a mechanism for making over-all decisions on spending priorities. The timetable permitted "...Congress to review the federal budget as a whole, relating revenue policies to spending decisions and setting budget priorities among competing national programs." [Ref. 2: p. 57] Also significant was the use of baselines as an alternative to the President's Budget to evaluate tax and spending decisions. [Ref. 5: p. 1393]

In practice, however, the process established in the Congressional Budget and Impoundment Control Act of 1974 had no enforcement mechanism. Therefore it could not guarantee compliance with either the timetables or the spending and revenue targets. Traditionally, Continuing Resolutions were

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proposed deferrals. A deferral may not extend beyond the end of the fiscal year in which the President's message proposing the deferral is made. Congress may overturn a deferral by passing a law disapproving the deferral. [Ref. 7: p. 259]

temporary emergency funding measures for federal agencies whenever Congress had not completed action on one of the thirteen regular appropriations bills by the start of the new fiscal year. It got progressively harder each year to pass the budget reconciliation due to the lengthy debate and the additional players. Continuing Resolutions, passed after the budget process timetable deadlines, became the final appropriations bills for the year. This set a dangerous precedent. Continuing Resolutions have become "major policy-making instruments of massive size and scope." [Ref. 2: p. 67]

By deliberately delaying regular appropriations bills to position them in an Omnibus Continuing Resolution, Congress further eroded the power of the President in the process. It was unlikely that the President would veto the package because he did not like one aspect of it. The President's ability to lead the budget process was diluted and his budget was no longer the authoritative one.

Internally, the reform provided for the coordination of decision making among elements of the legislature that had proceeded, historically, without coordination. It tried to bring a centralizing procedure to a fragmented institutional effort. And it tried to routinize macroeconomic thinking among all legislative decision makers. Externally, the reform was intended to redress a legislative-executive imbalance in budgetary power. It sought to give the legislature an independent institutional capacity to make budgetary decisions. It sought to put the legislature on an equal footing with the executive to cooperate if possible, to compete if necessary. [Ref. 8: p. 42]

During the 1980's the budget deficit continued to grow. The Congressional Budget and Impoundment Control Act was not

able to "rein in" Congress's propensity to spend. Congress's inability to make any spending cuts was further exacerbated by an overestimation of inflation in calculating tax cuts, resulting in a loss of revenue to the government. When combined with increased spending, this resulted in a huge deficit.

Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985 in desperation over the increasing deficit and the inability to pass the budget on schedule. Also called Gramm-Rudman-Hollings (GRH I), the act called for a zero deficit by 1991, to be enforced by across-the-board cuts in defense and non-defense discretionary spending if participants in the process were unable to meet the targets themselves.<sup>5</sup> Although attention was clearly focused on the budget deficit, lawmakers continued to avoid making the hard decisions. A variety of bookkeeping gimmicks, such as forecasting the sale of assets and revenues which never occurred and moving military paydays, were used to meet outlay targets. The use of the baseline concept and other accounting tricks created the illusion of spending cutbacks, even when expenditures were greater than in the previous year.

Congressional budget actions were consistently late. The inability of Congress and the President to reconcile their

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<sup>5</sup>The element of a presidential spending reduction order that occurs by reducing defense and non-defense spending by uniform percentages is called a sequester.

differences made the process even less effective. GRH specified the cutback amounts but not the programs. Although these cutbacks were mandatory, the lack of enforcement power is evidenced by the adjustments of the targets when they could not be met. Furthermore, by focusing on next year's outlays rather than budget authority, GRH transformed the thinking of senior federal budget analysts. Most federal programs are continuous and long-term and were not well-served when split into one-year increments for decision making. [Ref. 9: pp. 31-32])

Although only used twice, and in both years the sequesters were partial ones, in 1990 "...the threat of sequestration lost credibility, as the deficit estimate and the size of the required cuts needed to meet the GRH targets grew to unprecedented size." [Ref. 9: p. 29]

Budget reform was urgently needed to restore regularity and integrity to the process. Frustration with the process and the failure of the reforms to control the deficit resulted in the passage of the Budget Enforcement Act of 1990 (BEA). Title XIII of the Omnibus Budget Reconciliation Act of 1990, the BEA, puts in place a comprehensive set of budget process reforms, including discretionary spending limits, pay-as-you-go spending for entitlements and revenues, and "categorical sequestration" to enforce the agreement.

This thesis will examine the perceived need for reform of the federal budget process. It will first identify the

proposals of the Executive Branch, of the Legislative Branch and of selected experts from the academic world. The process as enacted in the Budget Enforcement Act of 1990, (BEA), will then be examined. Finally, the proposals will be compared with the actual procedural changes, providing a critical analysis of which faction was in closest agreement.

## **B. RESEARCH QUESTIONS**

The primary research questions for this study are:

What process reforms were proposed, and why? Which were actually enacted in the BEA?

The following subsidiary research questions were formulated to help define the primary research questions:

1. What were considered the symptoms of the breakdown of the budgeting process?
2. How did the proposed reform address the problem?

## **C. SCOPE AND LIMITATIONS**

The emphasis of the thesis is on institutional reform issues. Discussion is structured around the comparison of specific proposals for reform of the federal budget process. An examination of fiscal policy or how much deficit reduction will be achieved is beyond the scope of this thesis.

## **D. RESEARCH METHODOLOGY**

This thesis is based in primary budget materials, official publications of Congress and scholarly writings of budget experts. These include the Budget of the United States, The

Budget in Brief, Hearings of the Senate and House Budget Committees, Reports of the Congressional Budget Office and the General Accounting Office from 1980 to 1990, and the scholarly literature on budget reform. These data are synthesized to develop a profile of the need for budget reform and an analysis of what each group wanted. Other bibliographic searches were conducted as appropriate.

#### **E. ORGANIZATION OF THE STUDY**

The thesis is organized into six chapters.

Chapter I: Introduction--The background provides a description of the breakdown in the budget process during the 1980's and the turmoil caused by GRH I and II. This chapter also provides a broad introduction, identifies the purpose of the thesis, and establishes its scope and limitations. The methodology and organization of the study is also be presented.

Chapter II: The Presidents' Proposals--This chapter provides an examination of the recommendations of President Reagan and President Bush, including enhanced rescission authority, the line-item veto, the Balanced Budget Amendment to the Constitution, two-year budgets, joint budget resolution, and a second sequester.

Chapter III: The Congress--The focus of this section is limited to specific reforms as proposed by members of Congress in resolutions or in statements made in hearings on the budget

process reform. Specifically, amendments to GRH I and II are considered. Various approaches to multi-year budgeting, improved budget numbers and simplification of the process are discussed. Positions on the Presidents' proposals to revise the budget process are considered, and where appropriate, new initiatives are included.

Chapter IV: Budget Reform Theory--This chapter presents a review of the reforms recommended by selected scholars on the budget process. Specifically, their responses to proposals made by members of the Executive and Legislative Branches are considered. Other budget reform proposals generated by this group are included.

Chapter V: Presentation of the Budget Enforcement Act of 1990--This chapter describes the specific process reforms enacted in the BEA.

Chapter VI: Conclusions and Recommendations--This chapter compares the enactments with the proposals for reform. It provides a summary of which faction was most successful in getting its proposals enacted.

The efforts of this research will contribute to the understanding of the highly complex federal budget process. It will provide an assessment of which procedural reforms have been enacted and which failed to become a regular component of the process. The recommendations which were ignored in 1990 may prove to be important as Congress continues to struggle with budget issues in the future.

## II. THE PRESIDENTS' PROPOSALS

### A. INTRODUCTION

This chapter will examine Federal Budget-making process reforms advocated by President Ronald Reagan and President George Bush. The purpose of this chapter is to identify the specific reforms requested. An explanation of the history of some of the reforms is provided to give insight into the issue and the anticipated benefit to the budget process.

The first section of this chapter gives an overview of President Reagan's use of presidential impoundment power to control spending. It explains why both he and President Bush requested enhanced rescission authority. The second section will explore the proposal for a presidential line-item veto. Both Presidents called for procedural changes to the way the budget is prepared. In the next three sections the following procedures will be discussed: a constitutional amendment mandating a balanced Federal budget, two-year budgets, and a joint budget resolution. Finally, the last section will cover President Bush's proposal to add a second sequestration opportunity to eliminate a loophole in the provisions of Gramm-Rudman-Hollings.

## B. ENHANCED RESCISSION AUTHORITY

During the early years of his Presidency, President Reagan was extremely successful in the use of rescission and impoundment authority to "pare down" federal programs and discretionary domestic spending. He made much greater use of the impoundment process than his predecessors by recommending the rescission of \$15 billion in 1981, more than the total proposed by Presidents Carter and Ford in the previous six years. Congress approved \$12 billion of this amount, and, by failing to act, accepted the deferral of an additional \$11 billion in that year and the next. [Ref. 10: p. 88] Routine deferrals, authorized by the Anti-deficiency Act, permitted withholding of funds when program objectives could be met while spending less than the full amount authorized. These early impoundment successes did not continue. In 1981 and 1982, Reagan succeeded in getting Congress to cancel \$16 billion in appropriations. In 1983 through 1988 however, he prevailed on Congress to rescind only \$400 million. His success rate for proposed rescissions dropped from 69 percent during the first two years to only two percent in 1983-1988. As a result, Reagan abandoned this budget cutting tool in 1988 and did not propose any further rescissions. [Ref 10: p. 111]

In 1981 and 1982 Reagan used the impoundment power to his advantage to control spending. This initial success was attributed to his popularity and persuasiveness. Congress took positive action on the President's proposals, giving him

the cuts he requested. However, in 1983, the situation reversed itself. The use of impoundment gave Congress the tool to control the President. "Rather than acting on the president's proposals, as it did in the early years of [the 1974 Impoundment Control Act], Congress...prevailed by inaction." [Ref. 10: p. 112] The President's ability to constrain spending was further eroded by the 1987 amendment of GRH in which Congress terminated the President's power to make policy deferrals. "Ronald Reagan was the first president in American history expressly barred from deferring funds to slow down federal spending or to reduce the deficit." [Ref. 10: p. 113]

This disabling of the cutting tools diminished presidential power in the budget arena. In the Budget Message of the President, President Reagan requested enhanced rescission authority. He proposed reforming the budget process to require the Congress to take a recorded vote on any presidentially proposed rescission. This would prevent the Congress from "...ducking the issue by simply ignoring the proposed rescission...." [Ref. 11: p. 1-15] Even though "...the President wouldn't gain any additional power to kill spending, ...he could force Congress to take a stand publicly on items that he believes are wasteful." [Ref. 12: p.83] The Bush Administration proposals also included this enhanced rescission authority to force Congress to take a stand on each of the President's requests.

### C. LINE-ITEM VETO

Article I, Section 7 of the Constitution provides that the President may exercise his veto over a bill as a whole. There is no authority to veto parts, or items, of legislation. [Ref. 13: p. 47] Therefore, to implement the item veto at the federal level would require a constitutional amendment.

The issue of the power of the President in relation to that of Congress has historically been a delicate one. Nevertheless, Reagan relentlessly campaigned for a line-item veto to reduce appropriations bills so that the President could "...carve out the boondoggles and pork - those items that would never survive on their own." [Ref. 14] As Governor of California Reagan had that power and strongly believed that, like governors of 43 states, the President should have the line-item veto. This would give the President the tool to "...stop this sort of fiscal nonsense...[with] the ability to reach into those huge expenditure bills and cut out the waste." [Ref. 15: p. 18-D] In his final Budget Message, Reagan specifically targeted the massive Continuing Resolutions and reconciliation bills that had become the norm in the 1980's. "These large, cumbersome bills provide cozy hiding places for hundreds of special interest add-ons, which line-item authority would permit the President to challenge." [Ref. 16: p. 1-13] He continued "...[this] authority would permit the elimination of substantial waste and would be an

effective instrument for enforcing budget discipline." [Ref. 16: p. 1-13]

In the 1991 Budget, President Bush took the argument for the line-item veto one step further, expanding it to include entitlement programs. These are programs for which the government is legally obligated to make the required expenditures, regardless of the annual budget process. Second only to interest on the national debt, these mandated programs represent some of the federal government's greatest expenditures. Otherwise, application of the line-item veto would be limited to funds for national defense and domestic discretionary spending programs which depend on annual appropriations.

#### **D. BALANCED BUDGET AMENDMENT**

In their call for reform of the way Congress handles the budget, both Presidents Reagan and Bush advocated a constitutional amendment that mandates a balanced budget and forces the government to live within its means. "Such an amendment, once phased in, [would] discipline both Congress and the Executive branch...", President Bush told Congress in February 1989 in his address on budget proposals for the FY 1990 budget. [Ref. 17]

## **E. BIENNIAL BUDGETS**

Two-year budgets were proposed to save time and to improve efficiency. In 1986 this was tried on an experimental basis for defense authorizations and the concept was received favorably. As generally understood, biennial budgeting meant that Congress would adopt two-year budgets and appropriations bills, with the off-years used to review programs through authorization hearings. [Ref. 18: p. 1714] As Reagan envisioned the process, the two-year budget cycle would offer several other advantages: "...a reduction in repetitive annual budget tasks, more time for consideration of key spending decisions in reconciliation, and less scope for gimmicks such as shifting spending from one year to the next." [Ref. 11: pp. 1-15 - 1-16]

## **F. JOINT BUDGET RESOLUTION**

President Reagan first proposed the joint budget resolution in 1988 to improve the budget process. Frustrated by the routine discarding of the Presidential budget and the regular disregard of the congressional budget resolution, he proposed that "...Congress and the Executive collaborate on a joint resolution that sets out spending priorities within the receipts available." [Ref. 11, p. 1-15] Bringing the President into the debate earlier would "...[give] him a chance to influence the tax and spending outline that shapes appropriations bills and the reconciliation bill." [Ref. 5: p.

1391] The requirement of a Presidential signature or veto would force both branches of government to resolve policy differences prior to formulation of appropriations measures.

In his final Budget Message, Reagan was even more specific about the intention of this proposal:

To ensure the broader scrutiny and stricter discipline that is needed...I propose that Congress be required to prepare a budget resolution covering a minimum of two years showing revenue proposals individually and showing spending priorities....Subsequent legislation which exceeds these allocations should not be considered without super-majority approval. [Ref. 16: p. 1-14]

#### **G. SECOND SEQUESTER**

President Bush proposed a second sequester after 15 October, the date by which Office of Management and Budget, under GRH, must decide whether across-the-board spending cuts were needed to meet that year's deficit target. After that date, Congress could approve additional spending without the threat of such cuts. The problem with this process was that it required trimming the projected, not actual, deficit. Once the final projection was issued on 15 October, appropriations or additional spending authority could not trigger sequestration, no matter how much it affected the deficit. [Ref. 10: p. 205]

During the first week after the final OMB deficit report for fiscal year 1989, the Congress and the President enacted into law an additional \$500 million in spending legislation. Another \$20 billion was appropriated for the Financial

Institutions Reform, Recovery and Enforcement Act of 1989, (FIRREA), alone and \$3 billion in disaster assistance for the California earthquake disaster was not enacted until after the final OMB report. [Ref. 19: p. 6] None of this spending was included in the final OMB fiscal year 1990 deficit estimates. A second sequester opportunity would require all spending, regardless of the date, to be included in deficit calculation.

#### **H. SUMMARY**

The purpose of this chapter was to identify the budget reform proposals of the Executive Branch. Debate over many of these, and other requests occurred in the Legislative Branch and in the academic community.

Most of these proposals would strengthen the President's role in the Federal Budget-making process. If enacted, the President would have the tools to influence budget formulation and content. Opponents of this feared redistribution of budget power would give the President authority that constitutionally rested with Congress.

The next chapter studies the response of Congress to the Presidents' proposals. It examines other solutions offered to achieve budget discipline and regularity.

### **III. THE CONGRESS**

#### **A. INTRODUCTION**

This chapter explores Congressional interest in Federal Budget reform. Key testimony from the numerous hearings before committees of both Houses with jurisdiction over the budget process is discussed. Provisions for reform in several of the more highly regarded bills introduced in the Senates are examined in the first section. These include S. 1553, The Legislative Line-item Veto; S. 29 and S. 391, which provide different versions of a biennial budget proposal; and S. J. Resolution 12, calling for an amendment to the Constitution mandating a balanced federal budget. Other budget reform proposals are considered, including enhanced rescission authority and restructuring the committees. The second section considers two key bills introduced in the House of Representatives, H.R. 22 and H.R. 3929, and other budget reform proposals.

#### **B. THE SENATE**

##### **1. The Issues**

In October 1989, the U.S. Senate Committee on Governmental Affairs and the Committee on the Budget met to conduct a joint hearing to consider ways to improve the Federal budget-making process. Under a standing order of the

Senate, those two committees share jurisdiction over legislation that would change the budget process.

In his opening statement, Senator Jim Sasser, (D-TN), Chairman of the Committee on the Budget, voiced his belief that Gramm-Rudman was about to become "...more a part of the problem than a part of the solution." [Ref. 20: p. 2] According to Sasser, the Government had ended up with two set of books in order to give the illusion of progress: one for the Gramm-Rudman game and a set of books that were the real books. Gramm-Rudman encouraged the practice of gimmickry to reach the targets, and he suspected that, in reality, Gramm-Rudman accomplished neither of its primary objectives: to impose budget discipline or to constrain the deficit. In his view, what was needed was:

...a deficit reduction instrument with a broader time horizon, one less subject to manipulation, and one that builds its constraints more organically into the process rather than imposing them artificially at the end. [Ref. 20: p. 3]

He was referring to the fact that a sequester had been triggered two days prior to the hearing. The Gramm-Rudman constraint of the threat of sequester at the end of the process encouraged procrastination and "...the kind of end-game stalemate" they were experiencing at the time. [Ref. 20: p. 3]

The essence of Sasser's concern with GRH was that it had a one-year focus which encouraged tricks such as pay shifts and quick-hit, one-time revenue raisers. Incorporation

of trust fund surpluses into the unified budget served to mask the deficit, and the creation of special categories for such unanticipated, extraordinary expenses as the FSLIC bail-out contributed to the belief that the will to meet GRH targets was absent. Lastly, the fact that Gramm-Rudman was governed by the President's own Office of Management and Budget made the economic assumptions used by the Administration suspect. It was felt that the Administration could, and did, manipulate the savings needed to meet the targets.

Although not discounting the need for additional reform, Senator Sasser cautioned that the problem with Gramm-Rudman was that it attempted "...a process solution to a fundamental problem of political will." [Ref. 20: p. 3] Continuing his testimony he summarized the problem with the budget as insufficient funds to operate the Government and meet the needs of all the constituents or not enough political will to make the cuts and savings that need to be made.

Senator John Glenn, (D-OH), Chairman of the Committee on Governmental Affairs, concurred that improving or overhauling the budget-making process would not substitute for mustering the political courage to make the tough budgetary policy choices that needed to be made. He did, however, support reorienting the way the budget was measured, the way budgetary decisions were made, and the way the impact of the budget on the economy was assessed. He felt this reorientation would create a climate more favorable for

achieving truly enduring deficit reduction. [Ref. 20: p. 6] Glenn looked further to the Executive Branch for the kind of leadership that would result in truth in budgeting. He, too, criticized accounting gimmickry and phony results based on unrealistic, optimistic assumptions.

The proposals heard by the Committees covered a wide range of potential remedies for budget-making reform, including the proposals by the Administration to give the President enhanced rescission authority or line-item veto, and to move to a biennial budget. Other solutions proposed included transforming the GRH deficit reduction process, shifting to capital budgeting, and restructuring the Congressional Committee system.

Testimony reflected widespread sentiment in both parties that repeal or overhaul of GRH was necessary. However, the range and diversity of the proposals to achieve the desired discipline did not have the same unifying theme. Instead, much of the disagreement over how to effect change could be attributed to both institutional and partisan loyalties. Because redistribution of budget power is inherent in budget reform, to change the rules and procedures would also influence who has the final say, who controls public funds, and how disputes are resolved.

Fighting over power is simply another means of fighting over money, but with higher stakes. The recent budgetary relationship of the President and Congress has been marked by intense conflict over fiscal policy and spending priorities. The checks and balances available to the

contending branches have led to a protracted stalemate in which neither side has been able to fully impose its budget preferences on the other. [Ref. 21: p. 60]

## **2. Enhanced Rescission Authority**

In 1989 Senator Dan Coats, (R-IN), and Senator John McCain, (R-AZ), co-authored a piece of budget reform legislation, S. 1553. The Legislative Line-Item Veto was a compromise version of several different enhanced rescission bills that were pending before the Senate and House of Representatives. It left the rescission procedure of the Budget Control and Impoundment Act of 1974 in place, but added an improved procedure which expanded the President's range of options. Under the provisions of the bill, the President would be able to rescind, in whole or in part, budget authority not previously rescinded in that fiscal year. This would give the President two opportunities to cut Congressional "pork". He would be able to submit rescissions at the beginning of each year with the Presidential Budget. He would also be able to review all appropriations bills and send up rescissions within twenty days of signing each bill. The rescissions would go into effect unless both houses of Congress passed a resolution of disapproval within twenty days; however, the President could veto that resolution of disapproval. As with any other bill, it would require a two-thirds vote to override.

In addition to expediting the procedures by disallowing amendments and limiting debate, should the President recommend a rescission it would be effective unless overturned, rather than being not effective unless Congress approves it. Although entitled The Legislative Line-Item Veto, to address the issue of constitutionality, S. 1553 used the existing rescission law as its base. It changed the burden of proof by adding the requirement for a resolution of disapproval to stop the President's recommended rescissions.

Senator Coats did not view this reform as a shift in power from Congress to the Executive Branch in an unequal way. The proposal would provide the President an enhanced rescission type of power under a new title that would be an effective way to cut spending. By equalizing the distribution of power between the two branches, this authority would preclude Congress adding unnecessary spending projects that would not receive a majority of support on the Floor of the Senate or House to a bill which the President otherwise had to sign. [Ref. 20: pp. 42-44]

Opponents of the concept of enhanced rescission objected to the President being able to rescind part of an appropriation. They believed this would give the President authority that constitutionally rested with the Congress. Regardless, the frustration with the deficit and complaints about an omnipotent Congress gave the proposal 40 votes in a test vote in the Senate in November 1989. [Ref. 5: p. 1393]

Coats believed "...[enhanced rescission power] would impose a lot more restraint on Members." [Ref. 5: p. 1393]

### **3. The Line-item Veto**

The debate over whether to give the President the line-item veto was similar in principle to that over enhanced rescission authority. It was based on both partisan loyalty and on the institutional approach. The line-item veto was considered much more dangerous to the balance of power than enhanced rescission. A line-item veto requires two-thirds of both houses to overturn, whereas a simple majority vote in both houses could reject an enhanced rescission. [Ref. 5: p. 1394] Senator Glenn voiced concern about the possibility of a very politically-oriented President using a line-item veto as a weapon against particular members of Congress against whom he wanted to take some action or force into votes on specific projects. [Ref. 20: p. 45] This increased leverage over individual lawmakers could be a problem especially when control of the branches was divided. Those who opposed line-item veto did so because they perceived it to be a potential "policy weapon" rather than a deficit-cutting tool.

The line-item veto was more popular among Republicans whose priorities were less likely to clash with those of the Republican President than among the Democrats. [Ref. 5: p. 1394] There was support among the Democrats however. Senator James Exon, (D-NC), introduced S. 354 which would give the

President line-item veto authority for continuing appropriations for a two-year trial period. This trial would give both Congress and the President the opportunity to evaluate whether such authority unadvisedly tipped the balance of power. Under the provisions of this bill Congress could vote to overturn the President's action on important items during this trial period. In July of 1990, the Senate Budget Committee reported out, by a vote of 13-6, a measure by Senator Ernest Hollings, (D-SC), to give the President the power to veto individual items in appropriations. [Ref. 22: p. 2385]

#### **4. The Biennial Budget**

A two-year budget had wide support in the Senate although there were differing views as to how it should be implemented. These views can be grouped into three variations of the two-year budgeting proposal. One plan provided for a "stretch", with Congress and the President spreading current budget negotiations over a two-year period. This plan received limited attention. S. 29, co-authored by Senator Wendell Ford, (D-KY), and Senator William V. Roth, Jr., (R-DE), was a split-session proposal, providing for the President and Congress to spend one year setting the budget and then one year concentrating on other matters. Senator Pete Domenici's S. 391 could be called a summit proposal, with provisions for

a biennial budget agreement and annual appropriations. [Ref. 20: pp. 22-23]

Once phased in, under S. 29, the President would submit his budget recommendations on the first Monday after 3 January of each odd-numbered year. Congress would enact a two-year budget resolution, two-year appropriations bills, and a two-year reconciliation bill in the first session of Congress. The second session would be devoted to enacting authorizations and to enhanced oversight by Congress, and to compliance review by the Executive Branch. The Ford-Roth proposal assumed that the biennial appropriations would cover all federal appropriations. In his statement, Senator Ford insisted that "...to obtain the efficiency and advantages of a two-year budgetary cycle, biennial appropriations should be applied as broadly as possible." [Ref. 20: p. 141]

Under the provisions of S. 29, the procedures and discipline of GRH were retained. Existing timetables were not changed. Any sequestration order which became final in the first session of a Congress would impact the odd-numbered fiscal year only. In order to allow the economy the opportunity to correct itself or allow Congress to take corrective action, the need for a sequester in the even-numbered fiscal year of the biennium would not be determined until the second session of Congress. Senator Ford stated that corrective action could take the form of supplemental appropriations measures, including offsetting spending cuts

where necessary, revised authorizations or existing GRH procedures. [Ref. 20: p. 143]

The only other action required in the second year of the biennium was the completion of action on bills and resolutions authorizing new budget authority for the succeeding biennium. This deadline was purely advisory; there is no statutory requirement that authorizations be concluded by the last day of the second session of Congress. This bipartisan proposal, which had 38 co-sponsors, did not alter the power balance between the two branches. Senator Ford believed that the opportunity for oversight and in-depth review of existing programs could result in program changes and reauthorizations that could save dollars. This oversight would also enable Congress to define Federal priorities which would ultimately lead to budgetary savings. Authorization committees would actually gain sufficient leverage to influence policy decisions and program implementation at executive agencies. [Ref. 20: pp. 142-143]

S. 391, the Domenici-Johnston Congressional Budget Reform Act of 1989, reformulated the budget resolution as a two-year resolution, with planning totals for Budget Authority, outlays, and revenues for the subsequent two years. To strengthen the resolution, it would be a joint resolution requiring Presidential signature. It provided for, but did not require, a revised budget resolution at the beginning of the second year. Unlike the Ford-Roth proposal, this bill

would maintain one-year appropriations but did not preclude two-year bills.

In its review of the proposals for reforming federal budgeting practices, GAO endorsed macro-level biennial budgeting as "...perhaps the best opportunity for streamlining the budget process." [Ref. 23: p. 27] The benefit of biennial budgeting at this level was that it permitted the President and Congress to focus on broad policy issues without getting bogged down in the innumerable details of appropriations bills.

GAO also recommended consideration of biennial budgeting, in conjunction with annual appropriations, as a possible means to reduce the congressional budget workload and allow more time for oversight and other legislative activities. It recommended a timetable similar to the one proposed in the Ford-Roth proposal should Congress decide to switch to a biennial schedule. The report recommended testing the concept on organizations with operations and programs that were relatively stable and with no obvious impediments to biennial budgeting.

GAO preferred concentration of budget activity in the first session of Congress and oversight in the second session. This would allow:

- difficult budget votes to come in a non-election year
- permit budgets to be adopted during the first year of a President's term and at the start of a new Congress

- give a new President and Congress the ability to more quickly enact their programs, rather than having to operate two years under an earlier approved budget [Ref. 23: p. 28]

The Congressional Budget Office (CBO) report on biennial budgeting did not support the expectation that biennial budgeting would increase dramatically the efficiency of the Congressional budget process. According to CBO, the increased uncertainty resulting from expanding the budget horizon by a year would increase errors in budget projections. Another stated drawback to biennial budgeting was that it would limit cooperation between the legislative and executive branches because it reduced interaction. Furthermore, the report cited the reduced amount of influence that Congress could exercise annually. In the absence of annual appropriations, Congress would lose its coercive tool over the President in budget negotiations. Despite these objections, the CBO report offered several potential advantages to biennial budgeting:

- Congress could reduce the number of repetitive votes on budget issues
- Congress could spend more time on policy planning and oversight
- More efficient spending [Ref. 24: pp. 73-75]

## **5. Restructuring the Committees**

Proponents of those bills containing provisions to reform the committee structure sought to make Congress's work

more efficient and effective. In their omnibus reform bill, (S. 391), Senators Domenici and Johnston proposed replacing the existing Senate and House Budget Committees with a Joint Committee on the Budget composed of both House and Senate leaders.

Senator Nancy Kassenbaum, (R-KS), and Senator Daniel Inouye, (D-HI), introduced a bill to clarify the chain of command for decision making and to return to the Senate leadership a measure of power. Without this, they believed the impact of the other procedural modifications would be limited. [Ref. 20: pp. 148-149] Their bill would make the Budget Committee a priority committee composed of chairmen of other committees and it would consolidate the authorizing and appropriating process into individual legislative committees. Authorization legislation would be reported out with appropriation language included. Their purpose was to speed up the legislative process and to reduce the need for repetitious debate and redundant decisions. The third major change was to restructure committee jurisdictions so that standing committees would cover a single, broad policy area.

## **6. Balanced Budget Proposals**

Since 1969 over 400 balanced-budget resolutions have been introduced by members in both Houses of Congress. Faced with recession in 1979 and 1980, Congress began to look seriously at a balanced budget resolution. Although hearings

were conducted in 1987 and 1988, the Senate did not take any resolution to the floor.

Proponents of the balanced budget amendment called for an amendment to the Constitution which required that outlays not exceed receipts in any fiscal year. Under the provisions of S.J. Resolution 12, introduced by Senator Strom Thurmond, (R-SC), Congress would be allowed to adopt a specific level of deficit by a three-fifths vote. Approval of any bill to raise taxes would require a majority of the whole number of both Houses of Congress by roll call vote. Finally, Congress could waive the provisions of the amendment during times of war. Senator Thurmond stated that "...Congress has proven that it is unwilling to operate on a pay-as-you-go basis. ...Therefore we must write the rule of fiscal responsibility. We need a constitutional amendment for that purpose." [Ref. 25: p. 10] Quoting Thomas Jefferson, Senator Orrin Hatch, (R-UT), indicated he thought the national debt was probably the most important single issue facing the country: " 'The public debt is the greatest of dangers to be feared by a republican government.' " [Ref. 25: p. 2] The concept of the balanced budget was a part of traditional American fiscal policy. Abandonment of this fundamental policy "...contributed to the present situation in which there is insufficient external constraint upon the ability to our Congress to spend." [Ref. 25: p. 3] By requiring a vote in behalf of new taxes in order to accommodate new programs, Members of Congress would no

longer be free to submit to the political pressure of special interest groups. He looked to a balanced budget amendment not as a panacea, but as "...a necessary step toward putting America's fiscal house in order." [Ref. 25: p. 3]

Speaking for the opposition, Senator Howard Metzenbaum, (D-OH), called the idea "...a phony,...a gimmick,...the latest example of constitutional politics." [Ref. 25: p. 4] Concerned that the balanced budget would be unworkable and unenforceable, he felt that Members of Congress must stop playing games with the American people. A balanced budget could be achieved only through political will to do what is necessary.

#### **7. Other Budget Reform Proposals**

One additional proposal is significant to this study. This is the proposal to eliminate the loophole created by the October 15th sequestration date. Senator Kent Conrad, (D-ND), testified that a "look-back" sequestration would discourage Congress from shifting funding into the current year once the sequestration window had passed. Under the provisions of this proposal, OMB would look at the fiscal year just completed and determine whether Congressional action caused the deficit to increase. [Ref. 20: pp. 71-74]

Other proposals were introduced in the Senate to improve the federal budget process through changed accounting practices or presentation of information. Those pertain more

to fiscal policy and deficit reduction than to budget-making and are not included in this discussion.

## **C. THE HOUSE**

### **1. Background**

The Subcommittee on Legislation and National Security of the Committee on Government Operations conducted a series of hearings on reform of the Federal budget process in 1987. In his opening statement, Chairman Jack Brooks, (D-TX), declared the purpose of the hearing to be determination of whether the problem was a flawed budget process or simply the product of inaccurate or unrealistic budget numbers. [Ref. 26: p. 1] Another hearing on Budget process reform was held before the Task Force on Budget Process, Reconciliation and Enforcement of the Committee on the Budget in March 1990. Chairman Marty Russo, (D-IL), charged the Task Force with exploring the reason why neither the President nor the Congress were responsibly carrying out their duty to formulate and implement a budget for the Government of the United States and to examine what could be done to improve the budget process.

Both Congressman Russo and Congressman Leon Panetta, (D-CA), introduced a version of a budget process reform bill in the 101st Congress. Although both bills contained provisions to eliminate the use of gimmicks, the features that distinguish the bill are the means to change the Gramm-Rudman

sequestration process and how to reduce the deficit to an appropriate level.

## **2. Enhanced Rescission Authority**

There was limited support for enhanced rescission authority in the House of Representatives. It presented a particular dilemma for conservative Republicans who "...espouse the prerogatives of a strong legislature against the encroachments of the executive." [Ref. 5: p. 1394] This conservative split divided the Republicans into those who were frustrated that the Republican President could not get his way with a Democratically-controlled Congress and wanted to strengthen his tools, and those who took the more institutional approach.

On April 30, 1987 Congressman Trent Lott, (R-MS), House Minority Whip, introduced a bill to improve the congressional budget and appropriations process. His proposal gave the President special rescission authority over any long-term continuing appropriations for two or more regular appropriations bills for more than 30 days. Under the provisions of this bill, the President could submit a special rescission measure within three days after a Continuing Resolution was enacted. The rescission would take effect unless a joint resolution was enacted disapproving all or part of the rescission message within 20 days. This would force Congress to act on rescissions: to either approve or

disapprove them. [Ref. 26: p. 343] Should Congress adjourn without completing action on a rescission message, the Budget Authority would be held until the next session of Congress, at which time the President could resubmit the message. Besides taking aim at the "pork" and special projects embedded in omnibus reconciliation bills, this bill would provide an incentive to pass individual appropriations bills on time rather than relying on Continuing Resolutions.

### **3. Line-item Veto**

Enhancing the Presidential role in the budget process through the line-item veto raised concerns similar to those generated by proposals regarding rescission. Opposition to it was not purely partisan. Congressman Tom Foley, (D-WA), spoke for the majority who felt that the line-item veto would

...have very little to do with reducing deficits but would be used instead to vastly increase the President's control over policy, in effect requiring every minute congressional decision to be either supported by the President or passed by a two-thirds majority. [Ref. 26: p. 262]

Congressman Jamie Whitten, (D-MS), Chairman of the House Appropriations Committee also opposed the line-item veto:

The line item veto is another panacea proposed. If the President were given the power to withhold or approve, we had just as well abolish Congress. For the President to propose and the Congress to dispose is deeply set in the Constitution. [Ref. 26: p. 297]

A proponent of increased Presidential authority, Congressman Richard Armey, (R-TX), attributed the problem with the budget process to

...the Budget Act of 1974, which...was enacted precisely for, (1) cutting the President out of the process and leaving spending exclusively within the jurisdiction of the Congress, with the President's participation being limited to veto authority, and (2) the enormous growth in entitlements. [Ref. 27: p. 3]

The opposition of high-profile Republicans such as Congressmen Mickey Edwards of Oklahoma and Willis Anderson of Ohio to the line-item veto limited its popularity in the House. [Ref. 5: p. 1392]

#### **4. The Biennial Budget**

The biennial budget proved to be much less popular in the House than it was in the Senate. It met with much resistance in the House, especially from the standing committees and the Appropriations Committee. The inherent opposition to a two-year budget resulted from segments of the Congress that liked to deal with budget issues and those constituencies on a year-to-year basis. According to Congressman Panetta, this allowed them "...to satisfy their political requirements back home." [Ref. 26: p. 322]

Congressman Panetta co-sponsored H.R. 22 with Congressman Ralph Regula, (R-OH), in 1987. H.R. 22 would authorize and appropriate funds for a biennium in one appropriation act. What distinguished the Panetta bill from either of the Senate versions previously discussed was the time-schedule it

proposed. The oversight function would occur during the first session of a new Congress, with budget formulation activities occurring in the second session. Therefore the new Congress and a new President would inherit 20 months of a previous Congress's (and President's) budget. [Ref. 28: p. 31] Because Congress would be seeking re-election during the budget formulation phase, difficult decisions would not be made.

In 1990, neither Russo nor Panetta specifically addressed the biennial budget issue. Instead, both bills required five-year budgets and enforcement to eliminate the gimmicks associated with trying to meet annual deficit targets. The Panetta bill proposed both one- and five-year targets to counter a primary criticism of GRH that it inspires "budgetary myopia." [Ref. 29: p. 573]

## **5. Restructuring the Committees**

Although the proposal was not contained in any of the bills introduced for consideration by the House, Congressman Anthony Beilenson, (R-CA), submitted a restructuring statement for the 1987 Hearings. He had chaired the Rules Committee Task Force on the Budget Process from 1982 to 1984. He concluded that the single most important step that could improve the effectiveness of the budget process in the House of Representatives would be to change the composition and role of the Budget Committee. He proposed disbanding the existing Committee and replacing it with a panel made up of the

chairmen and perhaps a few ranking members of the Ways and Means and the Appropriations Committees. Those two committees have jurisdiction over all revenues and 90 percent of all spending. The other members would be several chairmen and ranking minority members of committees with jurisdiction over budget-related legislation. The Chairman would be appointed by the Speaker of the House; Beilenson suggested the Majority Leader. [Ref. 26: pp. 377-381]

Congressman Beilenson believed this change would make the process work more smoothly because the leadership and senior members of the tax and spending committees would have more direct involvement in the budget process.

#### **6. Balanced Budget Proposals**

Proponents of the concept of a balanced budget constitutional amendment believed that Congress was no longer able to control the Federal budget problem through existing statutory means. Backers said the amendment was vital to counter the propensity of Congress to increase spending. Congressman Charles Stenholm, (D-TX), and other supporters argued that it would give Congress the budget backbone it lacked. He was quoted as saying: "[W]e do not have [courage and guts] and we have not shown it. We need some help and an extra tool." [Ref. 30: p. 2284]

Those opposing a balanced budget amendment believed the problem was in the political process. Balanced budget

amendment proposals provided an easy substitute for making difficult choices and striving for an effective, accountable government. Fluctuating economic conditions make it impossible to guarantee a balanced budget based on projections made at the beginning of the fiscal year. Some also opposed the fact that enforcement would be the responsibility of the Judiciary, involving Federal judges and the Supreme Court in the budget-making process. [Ref. 7: p. 257]

Because H.R. 268 was rejected by the House in July 1990, the prospect for the balanced budget amendment reaching the Senate Floor was not bright.

## **7. Other Budget Reform Proposals**

The Panetta Bill, H.R. 3929, was much more than a proposal to change the length of the budget and enforcement periods. It was actually a comprehensive package which would completely overhaul the existing process. To provide honest deficit totals the plan would immediately remove Social Security from the calculations. It would dispose of Gramm-Rudman and its sequestration threat and replace it with alternative budget cutting procedures. Rather than mandating annual deficit targets, the plan provided the amount to be cut annually. Any inflation adjustments or increased spending or tax cuts would have to be offset by alternative spending cuts or tax hikes under Panetta's pay-as-you-go plan. The other important provision was the requirement that Congress use CBO

figures in its work instead of the overly optimistic economic projections from OMB. [Ref. 29: pp. 571-573]

#### D. SUMMARY

The Senate and the House of Representatives had a proprietary interest in retaining the Congressional power of the purse. As a result, support for the President's proposals was generally limited to partisan sympathy for a Republican President thwarted by a Congress controlled by the Democrats.

This chapter summarized Congressional debate over budget process reform. Within the Legislative Branch there was a clear consensus that additional reform was necessary. The proposals attempted to find a way to introduce discipline to the process by creating an effective framework within which the difficult issues could be resolved.

Diverse priorities and individual agendas precluded achieving this goal. The next chapter studies the need for reform from the perspective of selected experts from the academic world.

## IV. BUDGET REFORM THEORY

### A. INTRODUCTION

This chapter will present a review of the reforms recommended by selected scholars of the budget process. Their responses to the proposals made by members of the Executive and Legislative Branches will be discussed. The chapter concludes with a summary of the initiatives generated by this group.

The experts referred to include Alice M. Rivlin of the Brookings Institution, former director of the Congressional Budget Office. Rudolph G. Penner, Senior Fellow, The Urban Institute, also former director of the CBO, testified before Congress on budget process reform and has written extensively on that subject. He co-authored the book entitled Broken Purse Strings with Alan J. Abramson. Reform as proposed by Allen Schick, a professor of Public Policy at the University of Maryland is also included. He is considered by many to be one of the leading experts on budgeting. What this chapter explores is the range of theoretical solutions to budget reform proposed by budget experts who are psychologically distanced from the day to day tumult of the budget process and its partisan strife and can afford to look for the best solutions to problems in the budget process.

## B. ENHANCED RESCISSION AUTHORITY

All three authors favored strengthening the role of the President in the budgeting process. Both Penner and Rivlin were proponents of the enhanced rescission authority so strongly desired by the executive branch. Penner thought that the Congressional Budget and Impoundment Control Act of 1974 actually lessened the President's power to impound funds by defining impoundment powers very precisely. Enhanced rescission power would be a way to increase the President's power not to spend money because it would require Congress "...to go on the record and say that spending that the President says is not worthwhile is indeed worthwhile. That would be valuable discipline." [Ref. 27: p. 23] Although Rivlin doubted that the proposal would have a major effect on the size of the budget, enhanced rescission authority seemed a good idea to her. [Ref. 26: p. 152]

Schick believed that the impoundment control process was in need of repair. He claimed that "[a]s a general rule, I do not like arrangements that compel or prevent Congress from acting according to its will." [Ref. 26: p. 115] His concern was enactment of this proposal to force Congress to vote on rescissions would enable the President to reopen issues previously decided in the appropriations process. This could be mitigated depending on the specific manner in which it was implemented. If Congress was compelled to vote separately on each proposed rescission, Congress might be overloaded by

rescissions and subject to presidential pressure on particular projects. Conversely, if Congress was permitted to package numerous rescissions together into a single vote, it might be able to blunt the President's enhanced rescission power. He felt that if Congress was inclined to go along with the President, it would vote for rescission even if it were not required to do so. As had been the case during the latter years of the Reagan Presidency, without Congressional support most rescissions would likely be rejected. Therefore, even though Schick endorsed the concept, like Rivlin he did not expect it to have a significant impact on the budget. [Ref. 26: p. 115]

#### **C. LINE-ITEM VETO**

Their views on the line-item veto were largely consistent and reinforcing. Because it could be used to influence under 40 percent of federal spending, the line-item veto was not viewed as a potent tool to control total spending. [Ref. 31: p. 121] The same objection raised by opponents in Congress was raised by this contingent. The Presidents' request for the line-item veto was intended to enable the President to counter Congress's proclivity to spend more on favored projects. According to Schick, because Congress saw the item veto as affecting the distribution of budgetary power there was no prospect of it being enacted. "Asking for this power

is more a way of bashing Congress on the budget than doing something about the problem." [Ref. 10: p. 214] <sup>6</sup>

Penner's position on the line-item veto was predicated on the assumption that his other proposals would be effective in creating a process in which Congress no longer resorted to huge omnibus bills. Appropriations bills would be enrolled by title so that the President could exercise his existing veto power, Otherwise, he said "...the case for an item veto would be much stronger." [Ref. 31: p. 122]

#### **D. THE BALANCED BUDGET AMENDMENT**

The experts on the budget process agreed that any sort of mechanical approach to budget-making encouraged the dishonesty and gimmicks for which GRH had been criticized. They were therefore united in their opposition to an amendment to the Constitution mandating a balanced federal budget. The amendment would not improve the process or solve the deficit problem. Rivlin testified that in fact, to be tied

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<sup>6</sup>In actuality, Schick did not endorse restoration of presidential budget clout by any legal rule. Restoration of that clout depended more on political behavior than on legal rules. To constrain Congressional spending, the President must be perceived to be a fair and realistic guardian of the treasury, as someone who does not disproportionately favor some claims over others, or whose budgets are intended to out-manuever Congress. Only then will the President have an effective voice in Congressional budget decisions. [Ref. 10, pp. 215-216)

to a particular number in any given year...can lead to the wrong fiscal policy for the state of the economy, and it can lead to phoniness in budget decision making. [Ref. 26: p. 119]

Allen Schick argued that not only was a deficit of one to two percent of Gross National Product, (GNP), acceptable, but also that there was no compelling political reason to exclude the Social Security funds from deficit calculations. [Ref. 10: p. 200] He recommended that the government address this issue later, before the size of the retirement population grows, and stated that

...at a time when politicians have difficulty coping with the overall budget deficit, it does little good to urge them to tackle the task of eradicating the much larger on-budget deficit. [Ref. 10: p. 201]

#### **E. MULTI-YEAR BUDGETING**

The theorists agreed that Federal budgeting in effect then was too short-sighted, as it emphasized the impact on deficit reduction at the expense of longer-term planning. The benefit of multi-year budgeting would be greater efficiency in government programs due to increased consideration of their long-run implications. [Ref. 31: p. 115] Rather than prescribing a rigid, comprehensive two-year budget process, Penner and Abramson recommended expanding the use of two-year authorizations and appropriations. If results demonstrated the effect of economic uncertainty was not significant, they believed it would be conceivable that a comprehensive two-year system could be adopted. [Ref. 31: p. 117]

Schick suggested an approach to the budget cycle similar to one in Sweden. Under the provisions of this approach, multi-year authorizations and budget resolutions would coexist with annual appropriations. As Schick described it, the Swedish approach began its three-year budget cycle with a review of each spending agency's past performance. Then an understanding was negotiated on policies and resources for the next three years. In the intermediate years, annual appropriations would be subjected to less intensive legislative review unless there was a major departure from the agreement. Use of a multi-year budget could constrain entitlement spending because it would provide more lead time for committees to consider major changes. Savings would be computed on a fully implemented basis, with emphasis on the long-term impact of adjustments instead of the period immediately ahead. [Ref. 10: pp. 220-221]

Rivlin advocated moving the whole budget process to a two-year cycle in order to give legislators the opportunity to make significant changes. The longer budgeting period would give greater scope to the designing and implementing of major shifts in direction, which could not be accomplished in a single year. [Ref. 26: pp. 137-138]

#### **F. JOINT BUDGET RESOLUTION**

A strong advocate of enhanced Presidential power in the budget process, Penner recommended going to a joint, rather

than concurrent, budget resolution which the President could either sign or veto. Bringing the President into the process very early would give him or her a stake in enforcing the resolution once it was passed. [Ref. 27: p. 21]

Schick saw the joint resolution as a transformation of a set of guidelines into a statutory decision dependent on other legislation for its revenue and spending policies. "Making the resolution into a statute would enhance its status and possibly that of the overall Congressional budget process as well." Involving the President might "...spur timely budget negotiation with Congress." However, it does not guarantee agreement on budget priorities and according to Schick, "...converting to a statutory resolution would substantially escalate the risk of breakdown in the congressional budget process." [Ref. 10: pp. 214-215]

#### **G. SEQUESTRATION**

Of all the provisions of GRH, sequestration is the one that the experts found the most detrimental to honest, responsible budget-making. It reduced the chance for negotiation and allowed the legislators to avoid responsibility by hiding behind a formula.

Citing the enormous effort, time, and intellectual ingenuity devoted to attempts to get around mechanical approaches to deficit reduction, Penner concluded that it would be preferable to return to old approaches to budgeting.

He acknowledged deficiencies in pre-GRH procedures and proposed simplification of the old approach to make it less time consuming. [Ref. 27: p. 38]

According to Rivlin, GRH was enacted out of frustration. The purpose of setting firm budget goals and establishing sequestration as a punitive act for not meeting those goals was to force the compromises necessary to eliminate at least the unified budget deficit. Although a well-intentioned effort, she believed it was doing more harm than good:

If I were queen for a day I would say to the Congress, scrap Gramm-Rudman-Hollings and return to the process that preceded it. You do not need specific dollar targets. You do not need the bizarre threat of sequestration. [Ref. 27: p. 5]

However, if GRH with sequestration in it was to be retained, she endorsed changing the formula to include revenues in a major way. Rivlin felt that defense ought to take more of a cut since that was happening anyway. Providing agreement could be reached on where they were starting from, she recommended focusing on budget-deficit reduction instead of on the short-run bias of a particular target. [Ref. 27: p. 18]

Her colleague at the Brookings Institution, Henry Aaron, testified at the same hearing that Congress should get rid of Gramm-Rudman as soon as possible "...[o]r move to another kind of stick that does not involve sequestration." [Ref. 27: p. 19]

Schick concurred that "GRH should be overhauled or scrapped altogether." [Ref. 10: p. 206] The advantage in

preset deficit targets was negated by the distortions of GRH. He did not believe that revenue or spending action should be considered a saving unless it would reduce the deficit both in the year for which sequestration was pending and in the outyears.

#### **H. RESTRUCTURING THE COMMITTEES**

Alice Rivlin proposed major restructuring of the committees to improve the budget process. She advocated consolidating "...authorization and appropriation functions, to have one set of spending committees that dealt with areas of spending in the budget, including entitlements." [Ref. 26: p. 118] Under the existing structure, entitlement spending was outside the appropriations process.

This consolidation would reduce the load for the tax committee, which handled the bulk of entitlement spending. The revenue committees would handle only revenue programs. The budget committees would develop the overall budget strategy that would include both revenue and spending. The budget committees would also be tasked to consider relative priorities among programs and recommend appropriate fiscal policy.

As part of their overall plan to simplify the budget process, Penner and Abramson recommended a Joint Budget Committee to prepare and present the same budget resolution to both houses of Congress. [Ref. 27: p. 38] They specifically

endorsed Senator Domenici's plan as a means to simplify the process and make it less time consuming. The resolution would contain fewer spending categories in order to minimize the amount of time spent early in the process arguing over narrow budget functions.

The success of the budget resolution would depend on the composition of the joint committee. The resolution would be more easily enforced if the committee consisted of those members who are most important in formulating congressional budget strategy. Maximum prestige and power would be derived from a membership which included the majority and minority leaders of each house, the chairmen and ranking minority members of the Appropriations and revenue committees, as well as the most recent chairmen and ranking members of the House and Senate Budget Committees. Initially, the position of Chairman of this new joint committee would alternate between the former Budget Committee chairmen. The majority party would be allowed to appoint two additional members, one from each house, in order to give that party majority representation on the committee. In the event of a divided Congress, the committee would be evenly split. Under the provisions of this proposal, the role of Appropriations and tax-raising committees would be enhanced and the trend of erosion of power of the authorizing committees would continue. [Ref. 31: pp. 112-113] Penner did not advocate combining

Authorization and Appropriations into one committee that would perform both functions for individual budget categories.

## **I. OTHER BUDGET REFORMS**

The experts all saw the need to develop a system of economic projections that do not provide the incentive for gimmickry and escapism in budget formulation. Rivlin proposed a common forecast to which the whole Government would agree, and use. She believed this common set of assumptions would tend to be less overly optimistic. Although she did not identify the specific penalty, she did recommend developing some mechanism for having the person or part of Government which was being over-optimistic pay some sort of price for their position. [Ref. 27: p. 13]

Penner felt that to attempt to devise a technique for restraining the propensity to be over-optimistic might prove to be too difficult. Therefore, he suggested that Congress solicit the recommendation of a nonpartisan board of outside economists such as the one which already existed to advise the CBO on its economic forecast. Regardless of the method used, Penner recommended that once budget aggregates were put in place they should not be changed during the annual budget process "...to relieve Congress of the burden of shooting at a moving target." [Ref. 31: p. 123]

Schick was also a proponent of more objective economic forecasts. His concern was that forecasts become less

accurate in the outyears, projecting the deficit dropping and the country moving toward a balanced budget. He recommended the use of more conservative forecasting tools but was "...reluctant to tamper with the discretion of elected officials to use the forecasts that they want to use." [Ref. 26: p. 107]

Alice Rivlin touted Congressman Panetta's bill (H.R. 3929) as being "...a great improvement over the current process." [Ref. 27: p. 27] She saw its strength in that it eliminated sequestration, it made budget gimmickry unrewarding and it made it difficult to claim credit for short-run savings not yielding a reduction over five years. She found considerable merit in the idea that new government services should be paid for either by increasing revenue or cutting other expenditures.

In addition to the reforms discussed, Allen Schick proposed a two-stage process for budget formulation. In the first stage the President would present a framework for the next two years which concentrated on the aggregates and a small number of cross-cutting categories. Congress would debate this framework, after which the President and Congress would settle on an approved framework. In the second stage the President would submit a detailed budget, followed by Congressional action on appropriations and other budget legislation. The advantage of this would be the opportunity for presidential-congressional cooperation and to allow

regularization of the events in the budget cycle. [Ref. 10: p. 222]

In 1987 Schick stated that

...the process didn't cause the deficit, but the deficit has unraveled the budget process....Breakdowns, failure to meet deadlines, continuing resolutions, are in my judgment, a direct result of large, overbearing deficits. [Ref. 26: p. 80]

To reestablish the balance between claiming and rationing resources, the majority of Schick's other proposals were designed to strengthen the ability of government to ration. His proposals included controlling entitlements by de-indexing transfer payments. Alternatively, he suggested taxing benefits or making recipients pay for some benefits. [Ref. 10: pp. 208-209]

Schick also had several proposals for countering the distortions of baselines.<sup>7</sup> Finally, he recommended shifting the attention from outlays back to budget authority as part of the change in emphasis from the short-term deficit reduction targets of GRH. This would eliminate the temptation to manipulate the timing of actual payments, (outlays), in order to show a lower deficit. [Ref. 10: pp. 217-219] In 1987 Schick urged the Committee on Government Operations to consider an automatic continuing resolution to take effect when regular appropriations have not been enacted by the start

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<sup>7</sup>For a complete discussion of these proposals see Allen Schick, The Capacity to Budget, Washington, D.C.:The Urban Institute Press, 1990, pp. 210-213)

of the fiscal year, as well as other changes that would curtail the recourse to omnibus measures. [Ref. 26: p. 103]

## **J. SUMMARY**

The purpose of this chapter was to present the relevant reforms as proposed by selected members of the group of experts on the budget process. It should be apparent that their solutions were more evolutionary in nature than many of those contained in bills and other legislation proposed in Congress. Within this community there was a consensus that reform was clearly indicated and their views on the implications of change were more consistent than those of the elected officials.

The next chapter will examine the Budget Enforcement Act of 1990 and will discuss which process reforms were actually enacted.

## V. THE BUDGET ENFORCEMENT ACT OF 1990

### A. INTRODUCTION

In November 1990 President Bush and the Congress agreed on a budget accord designed to reduce the deficit by \$500 billion over the five year period covering Fiscal Years 1991-1995. The Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law 101-508 (5 November 1990), included multiyear revenue increases and reductions in entitlement spending and the 13 regular appropriations accounts for Fiscal Year (FY) 1991. To ensure that the full amount of the savings is achieved and maintained over this five-year period, new budgetary procedures were included in the OBRA of 1990. The Budget Enforcement (BEA) is Title XIII; Titles I through XII do not relate to the budget process. The BEA amends the Balanced Budget and Emergency Deficit Control Act of 1985 (GRH), as amended, and the Congressional Budget and Impoundment Control Act of 1974, as amended.

The law replaces meeting fixed deficit targets as the focus of the budget debate with new enforcement mechanisms to constrain federal spending. It divides the process into two parts, one for appropriations and another for entitlements and taxes. All taxing and spending legislation, except Social Security which has been taken completely off-budget, falls

into one of these two parts. A series of spending caps govern appropriations. Pay-as-you-go restrictions govern entitlements and revenues. [Ref. 32: pp. 61-62]

The purpose of this chapter is to describe the specific process reforms enacted in the BEA that will alter the way the budget will be drafted through FY 1995. The major provisions for budget process reform contained in the BEA include: discretionary spending limits, pay-as-you-go entitlements and revenues, multi-year budgeting and enforcement, changed sequestration procedures and locked-in economic and technical assumptions. These new enforcement mechanisms will be discussed in turn. The chapter will conclude with a summary of the budget agreement and its implications for budget formulation.

## **B. THE BUDGET ENFORCEMENT ACT OF 1990**

### **1. Discretionary Spending Limits**

The BEA divides discretionary spending in FY 1991-1993 into three categories: domestic, defense, and international. As shown in Table I, the BEA establishes separate ceilings for each category for both budget authority and outlays. Programs within these categories will compete with each other for funds. Any increase in spending for discretionary programs must be offset by corresponding spending reductions for one or more programs within that same category. Spending in one category can not be reduced in order to pay for programs in

another category, thus ending the perennial debate over "guns vs. butter".

<b>Discretionary Spending Caps</b> (In billions of dollars, by fiscal year)					
	1991	1992	1993	1994	1995
<b><u>Defense</u></b>					
Budget authority	\$288.9	\$291.6	\$291.8		
Outlays	297.7	295.7	292.7		
<b><u>International</u></b>					
Budget Authority	20.1	20.5	21.4		
Outlays	18.6	19.1	19.6		
<b><u>Domestic</u></b>					
Budget Authority	182.7	191.3	198.3		
Outlays	198.1	210.1	221.7		
<b><u>Total Discretionary</u></b>					
Budget Authority*	(491.7)	(503.4)	(511.5)	510.8	517.7
Outlays*	(514.4)	(524.9)	(534.0)	534.8	540.8
<small>*Budget authority and outlay numbers for the first three years are informational; the law specifies only the defense, international and domestic caps for those years.</small>					

TABLE I

In 1994 and 1995 the categories merge into one category for Total Discretionary spending, with total discretionary budget authority and outlay caps.

The budget resolution may reduce the amount of funding available to the appropriations committees to an amount less than the caps. Any reduction in appropriated spending would necessarily be used to reduce the deficit.

The BEA provides for adjustments to the appropriations caps at the time the President submits his budget. This allows for technical consistency, reflecting changes in

concepts and definitions, changes in inflation, and re-estimates of federal credit costs. It also provides for adjustment of the caps to reflect policy decisions made at the 1990 budget summit. The discretionary spending caps may also be adjusted in Fiscal Years 1992 and 1993 by a special budget authority allowance designed to make provision for estimating differences between OMB and CBO. Finally, OMB may adjust the caps for what the President and the Congress agree to designate as "emergencies".

Enforcement of the spending limits is accomplished through a new sequestration process which requires a "mini-sequester" only within the category in which a breach occurred. In the BEA, both budget authority and outlay caps are binding. Legislation that breaches either will trigger a sequester.

Under the provisions of the BEA, OMB must estimate the cost of any appropriations bill within five days after its enactment. It is this estimate that controls the process. If sequester is required, when it takes place depends upon when the spending occurs. For regular appropriations bills enacted before Congress adjourns to end a session, the sequester will occur 15 days after the end of the session. For any supplemental appropriations bill enacted on or after 1 July which causes a breach, the sequester to reduce the excess in that category occurs 15 days after its enactment. For any supplemental appropriations enacted after 30 June that breaks

the spending cap, the law requires that the cap for that category for the next fiscal year be reduced by the amount of the excess.

The change in the date for general sequestration from 15 October to 15 days after adjournment, combined with the bill-by-bill review of supplemental appropriations, provides the mechanism to measure the impact of all discretionary spending on the deficit.

## **2. Pay-As-You-Go Spending**

BEA requires that all revenues and direct spending be "deficit-neutral".<sup>8</sup> The Congress and the President must pay for all entitlement spending increases and tax cuts with offsetting entitlement spending cuts or tax increases in the same fiscal year. Any legislation decreasing revenues or proposing new direct spending must be offset so that the net deficit is not increased. CBO must provide OMB an estimate of the change any direct spending or revenue legislation would make in outlays or revenues. Within five days of enactment, OMB will provide to Congress an independent estimate of the impact on the deficit, with an explanation of any difference between that estimate and the CBO product. Legislation which OMB determines to cause a net increase in the deficit will

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<sup>8</sup>Direct spending includes outlays for entitlement programs, food stamps, and any spending programs not subject to appropriations.

trigger an offsetting, across-the-board sequestration in non-exempt entitlement programs, including spending for the National Wool Act, the special milk program, guaranteed student loans, foster care and adoption assistance, and medicare. The sequestration would occur 15 days after Congress adjourned at the end of a session and on the same day as any sequestration tied to enforcement of the discretionary spending limits or the deficit targets.

If Congress creates an entitlement program or tax benefit that is not 'revenue neutral',...it would then have to adopt a deficit-cutting 'reconciliation bill' to find the needed savings. [Ref. 33: p. 2796]

If there is not enough mandatory spending available in the non-exempt programs for a pay-as-you-go sequester, then a GRH-type sequester will make up the difference, with cuts distributed equally between defense and domestic appropriations.

Changes in entitlement spending or revenues other than as a result of legislation do not count under this system. Pay-as-you-go restrictions do not apply to increases in entitlement spending that are the result of more persons meeting the eligibility requirements. This falls into the category of spending not caused by Congress and therefore would not trigger sequestration. [Ref. 34: pp. 235-236]

Under the provisions of the BEA, spending is constrained by points of order that the Senate can waive only with the affirmative vote of 60 senators. "Points of order

enforce allocations and aggregates made by the budget resolution." [Ref. 32: p. 67] Even if spending legislation pays for itself with new taxes, a potential point of order exists against the amount of outlays that exceed a committee's allocation. In the Senate, the offset has to be reported before the benefit increase can be reported. This "reserve fund" allows the Senate, in effect

...to get credit against a committee's allocation of spending for the deficit reduction accomplished by a tax increase or a spending cut in another committee's jurisdiction. Similarly, the reserve fund allows the Senate to get credit against the revenue floor for the deficit reduction accomplished by a spending cut (whether in the same committee's jurisdiction or not). [Ref. 32: p. 68]

### **3. Multiyear Budgeting and Enforcement**

The BEA makes temporary changes to the Congressional Budget and Impoundment Control Act of 1974 to create five-year budget resolutions. The budget resolutions are enforced by a point of order against exceeding committee allocations for the first year and for the total of the five years covered by the budget resolution. Under the provisions of the BEA, section 311(A), Congress is not to consider any budget resolution or related legislation for FY 1992-1995 or any appropriations for 1992-1993 that would exceed the caps or sub-allocations made

under the caps. The point of order would not apply if the low growth provision applies or if war has been declared.<sup>9</sup>

#### **4. Sequestration Procedures**

GRH is extended by the BEA through FY 1995. New deficit targets are provided; however, they are essentially irrelevant until 1994. They may be adjusted prior to the start of FY 1992 and 1993 to prevent sequesters due only to changes in economic and technical assumptions. Because deficit targets and the economic assumptions behind it are locked in when the President submits his budget, the only way Congress can exceed the deficit target is to over-spend. That would be corrected by a "mini-sequester". As long as Congress keeps discretionary spending under the caps and follows the pay-as-you-go requirements, there will be no overall spending cut to meet a maximum deficit target. [Ref. 36: p. 336] For FY 1994 and 1995 fixed deficit targets under the GRH system will apply, enforced by a sequester like that required under

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<sup>9</sup>In the Congressional Research Service Issue Brief on Budget Enforcement in 1991, Robert Keith discusses the low-growth provision. A low-growth report to Congress is issued by CBO if either of the following conditions exist: (1) CBO or OMB estimate two consecutive quarters of negative real economic growth during the six-quarter period consisting of the previous quarter, the current quarter and the four following quarters, or (2) the Commerce Department advance preliminary or final reports of actual real economic growth for the most recently completed quarter and the preceding quarter indicate economic growth of less than 1% for each quarter. Upon receipt of such a report, the Senate majority leader must introduce (and the House majority leader may introduce) a joint resolution providing for the suspension of the budget enforcement procedures. [Ref. 35: p. 12]

the 1985 law. The President may elect to fully adjust the 1994 and 1995 targets for later economic and technical re-estimates. If he does not choose to adjust the targets, a 1985 "general" sequester will be triggered.

As already detailed, the BEA provides a schedule under which sequesters can occur several times during the year for discretionary appropriations and once a year for entitlements and tax cuts. [Ref. 33: p. 2796] The focus of this is not only the deficit target. In addition to enforcing discretionary spending limits and pay-as-you-go requirements, a sequester is triggered within 15 days after the end of a session of Congress if, by OMB's estimate, legislation pertaining to that fiscal year and the prior fiscal year results in a net increase in the deficit. [Ref. 37: p. 5] Exceeding budget authority and outlay ceilings in the categories of discretionary spending will trigger a sequester to bring spending in that category to below the ceiling.

This is a significant departure from the automatic spending cuts under GRH law, which has no provision for adjustments to deficit targets due to changes in the economy or a mistake in technical forecasts, such as the estimated rate of tax revenue growth. [Ref. 38] Compliance with the discretionary spending limits and with the pay-as-you-go requirements during the first three years of the agreement will mean that there will be no sequestration to achieve the maximum deficit amounts in those years. [Ref. 39: p. 3] The

timetable for sequestration reports and orders is shown in Table II.

Budget Timetable	
Jan. 30	* CBO sequestration preview report
Feb. 4	* President's budget is due; at the same time OMB must provide sequestration preview report.
Aug. 10	* President must notify Congress if he intends to exempt military personnel from sequestration or sequester such accounts at a lower percentage rate.
Aug. 20	* OMB sequestration update report.
10 days after end of session	* CBO final sequestration report.
15 days after end of session	* OMB final sequestration report; presidential order.
30 days later	* GAO compliance report

TABLE II

## 5. Locked-in Estimating Assumptions

Under the provisions of the BEA, the same economic and technical assumptions used in estimating the President's budget submission to the Congress will be used to make sequestration projections later in the year. This resolves the problem of Congress "aiming at moving targets" as the President revises his estimating assumptions during the year. The Senate Budget Committee will continue to use CBO estimates and analysis to prepare its reports to the Senate on the status of particular bills and amendments. The committee will

also adjust CBO estimates used to determine budget authority, outlays, new spending authority, and revenues consistent with adjustments underlying the budget resolution.

## **6. Additional Process Changes**

The BEA reaffirms the off-budget status of Social Security trust funds and excludes these funds from federal revenue and spending totals. Although the surplus of funds was included in deficit calculations made under GRH for deficit reduction purposes, they were exempt from sequestration. The BEA takes the trust funds out of the deficit calculations and continues their exemption from sequestration. The law requires the budget resolution to set forth on-budget totals. This represents a significant triumph to those who complained that the surplus was masking the true size of the budget deficit.

The BEA increased the authority of OMB. Previously there was shared power and various estimates of the costs of legislation, but the President ordered sequestration. Under the provisions of BEA, OMB authority increased because its cost calculations are the official ones and are binding on Congress.

The BEA also makes these changes:

- The BEA codifies the Byrd Rule to prevent including extraneous matter in reconciliation bills.
- The President's Budget is to be submitted by the first Monday in February each year.

- If Congress does not adopt a budget resolution by 15 April, the Chairman of the House Budget Committee must make an allocation to the House Appropriations Committee based on the President's budget.
- The Anti-deficiency Act is amended to explicitly prohibit spending or obligating sequestered direct spending and restrict the meaning of "emergencies including the safety of human life or the protection of private property".

### C. SUMMARY

The Budget Enforcement Act of 1990 significantly revised the budget process. It revised the GRH law which forced the President and the Congress to confront each other annually to reach an agreement as to how to meet a set of fixed deficit targets. The BEA "has revised GRH so that it now enforces the deficit reduction path on which the President and Congress have already agreed. [Ref. 32: p. 61] Because the decisions on how much deficit reduction is to be accomplished, and the larger choices among defense, domestic, and international categories have been made, the opportunity exists for the budget resolution to serve a vital planning function in the new system. The stability created by this agreement, and the removal of the threat of general sequestration will allow the Senate and House Appropriations Committees to do their work in the absence of budget turbulence caused by economic and technical factors beyond their control or unforeseen at the beginning of the budget process.

The purpose of this chapter was to identify the specific budget process reforms enacted in the Budget Enforcement Act

of 1990. In summary, the BEA changes the focus of Gramm-Rudman-Hollings from deficit control to spending control, and provides the enforcement mechanisms to do so.

In the next chapter the Budget Enforcement Act of 1990 will be compared with the proposals for reform. It will provide an analysis of which faction was most successful in getting its proposals enacted.

## VI. CONCLUSION AND RECOMMENDATIONS

During the period 1980-1989 there was widespread sentiment that the budget process required reform. Numerous hearings had been conducted in Congress, but the absence of a policy consensus reflected the difficulties created by the system of divided powers and partisan politics. President Reagan and President Bush each proposed a comprehensive set of reforms that would increase the budgetary power of the Executive Branch. Budgetary theorists explored the budget process and proposed a range of theoretical solutions that would restore stability and minimize fiscal gimmickry in federal budget-making. However, the Budget Enforcement Act of 1990 enacted few of the actual proposals. It represents a significant departure from recent practice in federal budgeting, but to call it a budget reform package misrepresents the scope of the agreement.

The BEA is not a comprehensive budget reform package. It does not provide a line-item veto or enhanced rescission authority for the President. It does not consolidate committees or rearrange responsibilities within the Congressional committee structure. Neither does it change the timetable for budget formulation to the two-year schedule so many advocated. The BEA is an agreement on spending totals

over a five-year period and includes the provisions to enforce those totals. In the process of complying with the provisions contained in the BEA, significant changes in Federal budget formulation will occur, but it is clearly not a bill to reform the process.

The negotiations on the Omnibus Budget Reconciliation Act of 1990 were conducted in secrecy. The changes were "drafted in private by a handful of individuals and approved after the barest minimum of public debate." [Ref. 33: p. 2794] The budget process changes represent a key aspect of the much broader deficit reduction agreement between the President and the Congress.

The agreement was the culmination of a protracted debate over budget totals and process changes, and represents the compromise struck by the conferees. No one faction was successful in implementing its previously articulated reform package. The Executive Branch, over all, gained more control.

The BEA shifted budgetary power from Congress and the CBO to the President and OMB. The adopted changes implement the priorities of the President and those who sought to introduce discipline and procedural honesty to the budget-making process. The changes restore the President to a strong leadership role in the budgeting process, giving him the tools to influence budget formulation and content.

The White House and the Republican negotiators insisted that OMB be given the power to tabulate the costs of new

spending programs and tax cuts and to then decide whether to trigger across-the-board spending cuts required to offset a net increase in the deficit. In exchange for the confidence that spending restraint would follow, they agreed to support the higher taxes that were part of the budget deal. [Ref. 40]

Both President Reagan and President Bush sought enhanced rescission authority and the line-item veto as a budget-cutting tool and as a means to eliminate special interest spending. Although the BEA does not grant the President these tools, the use of OMB totals on spending bills gives the Executive branch an almost equally potent means to influence legislation as it moves through Congress. It enhances the President's ability to block any legislation which he or she opposes if it costs more than the caps allow, or if it is an entitlement or revenue change without an offset. "In the current legislative environment, where the deficit is shaping most new legislation, cost estimates are decisive in determining whether a bill gets passed." [Ref. 40] If the President feels it is too expensive, this provision forces Congress to take a stand and defend spending increases. In the era of budget deficits, Members of Congress do not want to be viewed as supporting expensive new programs. [Ref. 33: p. 2795]

The spending limits and pay-as-you-go requirement for entitlements and revenues may help force the Federal Government to live within available resources. Although not

as controversial as an amendment to the Constitution mandating a balanced Federal Budget, these enforcement mechanisms will provide budgetary discipline in the absence of consensus and the ability of Congress to muster the political will to make the cuts and savings that may be necessary. This seems particularly true for those benefits and entitlement programs covered under the pay-as-you-go provisions.

The BEA, in essence, provides the same degree of cooperation between the branches that Presidents Reagan and Bush and the theorists hoped to achieve through a Joint Budget Resolution. By involving the President and representatives of Congress in the debate over the budget totals, both branches were forced to resolve policy differences prior to formulation of appropriations measures. The caps set out spending priorities within receipts available and will not allow consideration of legislation which exceeds revenue proposals without super-majority, (60 vote) approval in the Senate. The expansion of the sequester to allow review of all appropriations closes the loophole in GRH to which President Bush objected.

The idea of setting five-year spending caps for defense, domestic, and foreign aid programs was discussed by Republicans as part of the debate over the FY 1991 budget. Democrats advocated a five-year budget package, but argued against setting long-term spending caps that would severely limit Congress's flexibility to respond to changing needs.

[Ref. 22: p. 2384] The White House and the Republicans prevailed; the BEA contains spending caps and broke out discretionary spending into three distinct categories: defense, domestic, and international programs, for the first three years of the agreement.

Even though the BEA amends, rather than replaces GRH, those who proposed overhauling GRH because of the problems associated with meeting fixed deficit targets under the threat of general sequestration were successful. This reform proposed by so many in Congress and among budget experts is reflected in the elimination of fixed deficit target as the focus of the budget debate. The BEA

...changes the emphasis in the Congressional budget process from controlling the growth of the deficit to limiting spending...[and it] appears to minimize the possibility of general sequestration for the next two fiscal years." [Ref. 9: p. 26]

The enforcement mechanism is the requirement that all legislation pay for itself or trigger a "mini-sequester".

There is no doubt that there will be continued demand for budget process reform. The strengthened role of the Executive Branch represents a shift in budgetary power that is unacceptable to many in Congress. A major consideration influencing the position of Senators and Congressmen with regard to the budget agreement is the impact of the decisions on interests in the individual legislators' district or state. Many members felt they voted on a budget package without fully

understanding its contents and its implications for budget formulation for the next five years.

To simply create limits on federal spending and provide a set of mechanisms to enforce those caps will not reconcile the diverse and competing interests in government. Layers of complexity exist, and each attempt to reform the process adds yet another layer. Until there is sufficient public pressure, in other words, until it becomes a constituent issue to make the budget process efficient, it is doubtful that Congress will make significant improvements in the way the federal budget is formulated.

This study was limited by the current nature of the subject. A suggested topic for further research is to evaluate the BEA and its effect of budget formulation over the period of the agreement. The study would analyze the budget process as it evolves over the five years of the agreement and what additional reforms are determined to be necessary.

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