



STATEMENT OF REPRESENTATIVE THOMAS M. MCCLINTOCK
to the House Rules Subcommittee on Legislative and Budget Process
concerning
H.R. 1610 – THE BIENNIAL BUDGETING AND ENHANCED OVERSIGHT ACT
OF 2015

6 January 2016

Budgeting and Governing

Mr. Chairman, Mr. Ranking Member, thank you for inviting the Budget Committee to testify here today. Obviously, our committee is keenly interested in the kinds of budget procedures Congress adopts. Much of Congress's constitutional role involves the power of the purse in some fashion; setting priorities and allocating resources are our principal means of shaping policy and exercising the checks and balances at the core of our constitutional architecture. Effective governing requires effective budgeting. As a renowned political scientist once put it:

The importance of conflicts over the size and distribution of the budget – failure to pass a budget on time or at all has become a sign of inability to govern – testifies to the overwhelming importance of budgeting. Nowadays the State of the Union and the state of the budget have become essentially equivalent.¹

Congress's budgetary practices play another crucial role not commonly acknowledged in process reform discussions. Effective congressional budgeting is indispensable for maintaining the Federal Government's constitutional arrangement of three separate and co-equal branches of government. The power of the purse is central to Congress's legislative, policymaking authority, and therefore critical for maintaining a representative form of government. It translates the parchment boundaries of the written Constitution into the manifest reality of our system of government:

When you have decided upon your budget procedure you have decided on the form of government you will have as a *matter of fact*. Make the executive the dominating and controlling factor in budget-making and you have, irrespective of what label you put on it, an autocratic actual government. If . . . you give the dominating and controlling influence to the representatives of the people elected to the legislature, you have,

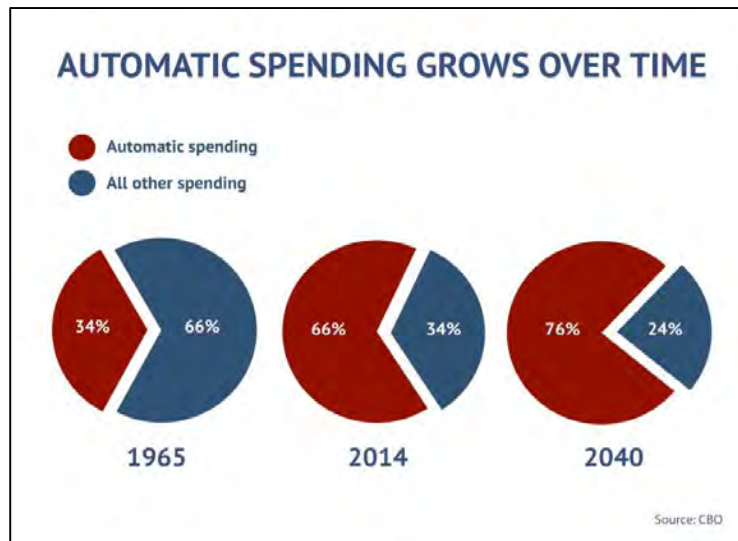
¹ Aaron B. Wildavsky, *The New Politics of the Budgetary Process* – Third Edition (New York: Addison-Wesley Educational Publishers Inc., 1997) p. xxiii.

irrespective of what label you put on it, a democratic or a representative actual government.²

That is why restoring a vigorous congressional budget process matters: It is essential to asserting Congress's constitutional responsibilities. In the mean time, it is critically important that in this coming year the House should follow the existing regular order of budgeting, as the Speaker has pledged. The current budget process has many flaws and maddening complexities; it has never worked smoothly. Still, it *is* an organized, systematic arrangement. It can at least help bring some order to our budgetary decisions. So while Congress attempts to redesign the budget process, lawmakers should at least use the one we have. That alone would go a long way toward restoring Congress's constitutional authority, and its credibility with the American people.

Ultimately, what we legislators really need is a total rewrite of Federal budget procedures. The Congressional Budget Act was written more than 40 years ago, when circumstances were very different from what they are today. For example, in 1974, programs funded by what is called "direct" or "mandatory" spending – programs such as Medicare, Medicaid, cash welfare assistance, food stamps, student loans, net interest, and many others – constituted about one third of the budget. The remainder, called "discretionary" spending, was subject to annual appropriations and specific limits established by Congress. Today those proportions are reversed. Direct spending is now fully two thirds of the budget – and that share is growing (see Figure 1).

Figure 1

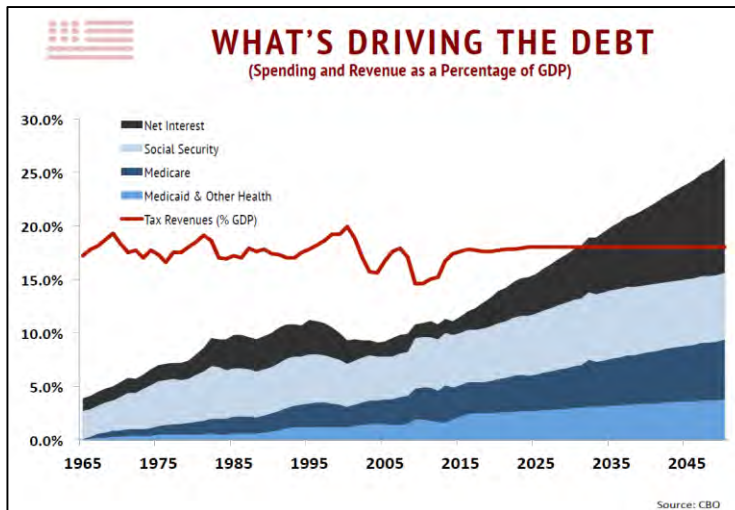


Why does this matter? Direct spending is *automatic*. Once a direct spending program is authorized, the government spends whatever it takes to meet its obligations. Congress does not establish limits on the totals. Further, spending in these programs is determined largely by factors outside Congress's control, such as demographics, inflation, interest rates, and so on. To put this another way, an increasing portion of the budget is *designed* to be uncontrolled. This direct spending is the only source of future spending growth as a share of the economy, and is the main driver of the government's deficits and debt (see Figure 2).

² Edward Augustus Fitzpatrick, *Budget Making in a Democracy* (New York: The Macmillan Company, 1918).

The budget process does have a mechanism, called reconciliation, for addressing these programs. Nevertheless, even in the rare occasions when Congress has used this procedure, the fundamental structure of the programs remains; they continue to run on auto-pilot. Hence they continue to expand beyond the reach of regular congressional control.

Figure 2



In addition, over the years Congress has layered on several amendments to the Budget Act, including sequestration, statutory spending caps, pay-as-you-go rules – as well as numerous internal budgeting rules. These procedures have added far more complexity to what was already a highly complicated process.

In short, Congress needs to tear down the entire structure and start rebuilding the budget practices from the ground up – to make them simpler, more efficient, and more effective. In re-evaluating the current process, however, we should not limit ourselves to the congressional side; the examination should extend to the President’s budget as well. For more than 50 years prior to 1974, only the President had a comprehensive budget for the government. It was the product of the 1921 Budget and Accounting Act, which also created the administration’s Bureau of the Budget (now the Office of Management and Budget) and the General Accounting Office (now called the Government Accountability Office). This executive budget – modeled largely on Great Britain’s parliamentary system – gave the President a powerful tool for setting the national agenda. The practice also corresponded with the period of what Schlesinger called “the imperial presidency.”³ The Congressional Budget Act was adopted largely to reassert Congress’s budget authority and restore the balance of powers. Yet the President’s budget, which remains the starting point for the budget process, continues to exert disproportionate influence on the policy agenda – even though it has no legislative authority. Legislators should reassess this arrangement as well in reforming the budget process, and strive to assert congressional authority over fiscal policy, as the 1974 act intended.

These considerations, and many others, reinforce the need for a complete rewrite of the budget process. Specific, incremental fixes, however well-intended, will only patch over certain defects while leaving the underlying, fundamental flaws in place. Furthermore, adopting one or two of these piecemeal reforms – such as biennial budgeting – will create an *illusion* that lawmakers

³ Arthur M. Schlesinger Jr. *The Imperial Presidency* (New York: Houghton Mifflin Company, 1973).

have fixed the process, rather than actually remedying it. Such a move would only slow the momentum for the complete overhaul that's required.

Critique of Biennial Budgeting

That said, looking more closely at biennial budgeting itself reveals several potential problems with the concept. The principal arguments supporting the idea simply do not add up, and the risks it introduces are quite serious and could be long-lasting. For one, it will make it more difficult to keep us on a path toward balancing the budget, which will require frequent adjustments along the way. Budgeting only once every 2 years will limit these opportunities. Even worse, it is likely to undo whatever gains we have made in fiscal policy, accelerating the debt crisis we are already facing. It also limits Congress's ability to respond to changing priorities.

Apart from these broad concerns, here are some other problems with the biennial budgeting concept.

Appropriations Timing. First, the main assumption of biennial budgeting is that Congress will be able to pass 12 separate appropriations bills, covering 2 years each, by 1 October of the first session of Congress. As is well-known, Congress regularly breaches that deadline now for *1-year* spending bills – and all too often does so deliberately. Yet the biennial budget plan assumes that lawmakers will complete 2 years' worth of appropriations in that same amount of time. That is, to put it simply, a non-sequitur. The real likelihood is just the reverse: Instead of making Congress act more efficiently, the biennial calendar would inevitably lead legislators to stretching the appropriations process over the full 2 years.

The Budget and Impoundment Control Act of 1974 moved the beginning of the fiscal year from July 1 to October 1 in order to give Appropriations Committees more time to complete their tasks between the release of the president's budget and the beginning of the fiscal year. On-time performance has deteriorated markedly since that reform was implemented. I fear that if we went to biennial budgeting, the appropriations process could take two years to complete two-year appropriations.⁴

Eventually, Congress would start rolling the separate, biennial spending bills into massive, 2-year omnibus continuing resolutions – twice the size of the one passed just last month.

Particularly in a divided government, change occurs incrementally. Compromises are easier to attain over small measures of time and complexity. By doubling the period covered by the budget and appropriations process, compromise is likely to become more difficult and therefore less likely as the stakes involved become so much greater.

Oversight Assumptions. Using more time for appropriations will also undermine the oversight aspirations associated with the biennial process. Advocates contend that if Congress considers appropriations only every other year, legislators can use the alternate years for oversight and authorizations. This extra time, however, disappears if the appropriations process does get prolonged; Congress will still be considering and reconsidering appropriations constantly, just as occurs now. In addition, 2-year appropriations bills would reduce the opportunities for the most effective oversight – during budget deliberations.

⁴ Rudolph G. Penner, Urban Institute, testimony to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

Agencies and departments respond with dispatch when their budgets are under scrutiny. Disconnecting oversight from budgetary decisions would make agencies less responsive to Congress. Consequently, Congress would cede more control of policy to the President and the huge, domineering bureaucracies of the administrative state.

Proponents of biennial budgeting claim that it would “free up” Congress to conduct oversight in the off year. That claim is supremely ironic, for the most careful and effective oversight Congress conducts is through the annual appropriations process, when an agency’s performance and needs are reviewed program by program, line by line. Off-year oversight would be less, not more, effective because it would be further removed from actual funding decisions, reducing Congress’s leverage.⁵

Frankly, the ostensible oversight benefits of biennial budgeting are overstated anyway. The problem is not a lack of time. Committees have the time and ability to hold hearings, write reports, analyze material produced by the Inspectors General and the Government Accountability Office, and outside sources. Indeed, research by the staff of the Committee on the Budget showed a total of 767 hearings conducted in the past year alone (as of 5 November) by standing authorizing committees of the House (excluding Budget, Appropriations, and various select, joint, and special committees) (see Table 1). The Appropriations Committee and its subcommittees had conducted 99 hearings at that point. To reiterate, it is not additional time the committees need. What they need is better tools to *apply* their oversight findings – and the best mechanism for that is budgeting.

Table 1: Does Congress Need More Time for Oversight?

Number of 2015 Hearings by House Standing Committees

Committee	Hearings ^a
Agriculture.....	43
Armed Services.....	64
Education and the Workforce.....	29
Energy and Commerce.....	94
Financial Services.....	60
Foreign Affairs.....	113
Homeland Security.....	44
Judiciary.....	29
Natural Resources.....	41
Oversight and Government Reform.....	76
Science, Space, and Technology.....	41
Small Business.....	30
Transportation and Infrastructure.....	29
Veterans’ Affairs.....	44
Ways and Means.....	30
Subtotal: Authorizing Committees.....	767
Appropriations^b.....	99
Total.....	866

Source: House Budget Committee majority staff.

^a “Hearings” reflect sessions, by full committees and their respective subcommittees, that are not markups or are not focused on specific legislative proposals, as of 5 November 2015.

^b Most Appropriations Committee and subcommittee hearings are labeled “budget hearings.”

The experience of States is instructive on this point. In 1940, 44 States had biennial budgets. Today, only 19 do, and most of these are among the smaller States. Since 1968, 15 States have

⁵ The Honorable David E. Price, Representative in Congress, testimony to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

moved from biennial to annual budgets; only three have moved from annual toward biennial budgets. It seems that as government has become more complex and the need for legislative oversight has grown, States have found annual budgeting better meets their increased need to provide effective oversight.

National Security Needs. Another problem is the major budget legislation that must be considered every year, such as the National Defense Authorization Act. The biennial budgeting process assumes authorizations will run on a 2-year cycle as well as appropriations. This will not be adequate for critical areas such as national security. As events in the Middle East continue to demonstrate, Congress must be prepared to respond to emerging, and often unpredictable, threats – and to adapt the government’s national security funding promptly. That cannot occur merely every other year.

Uncertain Budget and Economic Forecasts. On the other hand, even if Congress could follow the bill’s schedule, budgeting 2 years at a time would force lawmakers to rely on notoriously unreliable budget estimates. Budget writers already have a difficult time estimating economic and fiscal conditions a year in advance, let alone 2 years. The Congressional Budget Office [CBO] issues three baseline estimates in a single year to accommodate fiscal and economic changes. Projecting 2 years ahead would be at least twice as difficult and uncertain, and would introduce more baseline changes following any budget resolution. Table 2 below compares CBO’s economic projections with actual outcomes, reflecting how much the two can differ.

Table 2: CBO Economic Projections and Actual Outcomes
(percentages of growth in real gross domestic product)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	10-year average
2010 CBO Projection	2.2	1.9	4.6	4.8	3.9	2.9	2.5	2.3	2.2	2.2	2.3	3.0
Actual	2.5	1.6	2.2	1.5	2.4	--	--	--	--	--	--	
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	
2011 CBO Projection	2.7	3.1	3.1	3.5	3.8	3.0	2.5	2.4	2.4	2.4	2.4	2.9
Actual	1.6	2.2	1.5	2.4	--	--	--	--	--	--	--	
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
2012 CBO Projection	2.2	1.0	3.6	4.9	4.2	3.3	2.8	2.6	2.5	2.4	2.4	3.0
Actual	2.2	1.5	2.4	--	--	--	--	--	--	--	--	
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
2013 CBO Projection	1.4	2.6	4.1	4.4	3.8	2.6	2.4	2.3	2.2	2.2	2.2	2.9
Actual	1.5	2.4	--	--	--	--	--	--	--	--	--	
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	
2014 CBO Projection	2.7	3.3	3.4	3.0	2.4	2.3	2.2	2.2	2.1	2.1	2.0	2.5
Actual	2.4	--	--	--	--	--	--	--	--	--	--	
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	
CBO January 2015	2.8	3.0	2.7	2.2	2.1	2.2	2.2	2.2	2.1	2.1	2.1	2.3
CBO August 2015	2.3	3.0	2.9	2.3	2.2	2.2	2.2	2.2	2.1	2.1	2.1	2.3

Source: House Budget Committee majority staff, based on data from the Congressional Budget Office and the Bureau of Economic Analysis.

The differences can have important implications for the budget. A CBO “rule of thumb” says that if real growth in gross domestic product [GDP] is one-tenth of a percentage point lower each year over the next 10 years, deficits would be \$326 billion deeper than projected. That difference consists of \$288 billion less in revenue, and \$37 billion more in spending (mostly from debt service).⁶

⁶ Congressional Budget Office, *The Budget and Economic Outlook: 2015 to 2025*, January 2015, Table C-1.

Note also how CBO has ratcheted down its economic estimates over the past several years, reducing its projection of average annual real GDP growth from 3.0 percent to 2.3 percent. This trend – disturbing enough in economic terms – can have a significant effect on the outcomes of budgetary policies.

Budgetary estimates can differ sharply even within a single year. For example, between January and August this year, CBO's 10-year deficit projection (for fiscal years 2016 through 2025) declined by \$634 billion, almost entirely due to changes in economic and technical factors, not new legislation.⁷ Of course, other economic changes, such as interest rates and inflation, can also have significant effects on budgetary estimates and outcomes, and these can never be predicted with a high degree of certainty.⁸ The impact of these estimating difficulties would become magnified in a biennial budgeting arrangement.

Proponents claim biennial budgets would make it easier for agencies to plan their activities. In fact, however, agencies also would face much more difficulty formulating their own budget requests. They would have to estimate their needs as much as 28 months in advance – something nearly impossible to do within a reasonable degree of accuracy. Priorities are more likely to change as well. Consequently, agencies would repeatedly seek to reprogram funds, or to request additional funding.

Off-year budget problems that could not be handled through reprogramming requests would necessitate supplemental appropriations bills. We already enact supplemental bills when unforeseen emergency needs crop up after an appropriations bill has been enacted. Budgeting two years in advance will only lead to a greater mismatch between the country's needs and agency budgets. In fact, the whole purpose of biennial budgeting could be undermined by the proliferation of supplementals in the off-years.⁹

All these factors would force Congress to delegate to the administration vast discretion to alter budget execution – or to pass large supplemental spending bills in the off-years. This would reduce accountability and severely weaken fiscal discipline.

Reconciliation. Biennial budgeting also would reduce the number of opportunities for budget reconciliation.

[T]he reconciliation process, which is central to the Congressional budget process, has been used in the past (most notably, in the 1990s) to force the kinds of changes that have been used to reduce past deficits. A biennial process – one that said that the budget resolution, and therefore reconciliation, could only be used in odd-numbered years – would only require Congress to confront our current fiscal imbalance every other year. I think that as long as the federal budget is on its current unsustainable trajectory, the Congress (and the President, for that matter) should be forced to confront fiscal policy every year.¹⁰

⁷ See Congressional Budget Office, *The Budget and Economic Outlook: 2015 to 2025*, January 2015, Summary Table 1, and *An Update to the Budget and Economic Outlook: 2015 to 2025*, August 2015, Summary Table 1.

⁸ See Congressional Budget Office, *CBO's Economic Forecasting Record: 2015 Update*, February 2015.

⁹ Price, *op. cit.*

¹⁰ Philip G. Joyce, University of Maryland School of Public Policy, testimony to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

Reconciliation is still the best mechanism for addressing the automatic spending crisis mentioned previously. Congress should employ this process more than once *every* year.

Weakening the Budget Resolution. The sponsors say they are willing to adjust their bill to allow annual appropriations and reconciliation. If that occurs, however, it is not biennial budgeting any more. The only thing that would remain on a 2-year cycle is the budget resolution – *the most important part of the process.*

Since the passage of the 1974 Budget Act, the budget resolution has presented an opportunity for the Congress to respond with an alternative budget plan to the plan included in the President's budget. Virtually all observers and analysts have concluded that this has empowered the Congress, relative to the President, in the budget process.¹¹

The resolution is the only measure that defines Congress's comprehensive view of governing, and sets overall spending parameters. It is where Congress reflects its own priorities to compare with those of the President, and show how the legislature plans to control spending and reduce deficits and debt. The less often we use it, the more we surrender the policy agenda – and control of overall spending – to *one person* sitting at the other end of Pennsylvania Avenue. That is *not* what our Constitution intended.

Conclusion

The Founders had good reason for giving the power of the purse to the legislature. National policy comes from a consensus of the Congress – and the budget is our principal means of exercising that authority. That is the simple fact expressed by Madison's famous quote:

This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.¹²

It is difficult, if not impossible, to think of any activity at which one improves with *less* practice. This is certainly true of budgeting: The less often we do it, the more difficult it becomes to do it well. Equally important, less frequent budgeting will reduce Congress's constitutional authority, and undermine the balance of powers so crucial to protecting Americans' liberties. To maintain a meaningful impact on policy, Congress should be budgeting *more* often, not less.

Thank you again for this opportunity to discuss the important task of reforming and reviving the practice of congressional budgeting, and I'll be glad to take any questions.

¹¹ Ibid.

¹² *The Federalist*, No. 58.

Exhibits

Exhibit A: Testimony of the Honorable David E. Price, Representative in Congress, to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

Exhibit B: Testimony of Alice M. Rivlin, Senior Fellow, the Brookings Institution, to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

Exhibit C: Testimony of Rudolph G. Penner, Institute Fellow, Urban Institute, to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.

Exhibit D: Testimony of the Philip G. Joyce, Senior Associate Dean and Professor of Public Policy University of Maryland School of Public Policy, to the Committee on the Budget, U.S. House of Representatives, 18 November 2015.