

# **The Dynamics and Dysfunction of the Congressional Budget Process: From Inception to Deadlock<sup>i</sup>**

**By**

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The last forty years have been turbulent times for the congressional budget process. Since passage of the 1974 Budget and Impoundment Control Act, there have been constant federal budget challenges and spectacular changes in the rules of the congressional budget process in attempt to control spending and the deficit. Congressional attempts to express stronger constitutional “powers of the purse” are founded in numerous battles with the president over spending and revenue policies. This chapter describes the foundation and evolution of the congressional budget process and evaluates its successes, failures and future challenges.<sup>ii</sup>

## **From Chaos to Control: Budgeting from 1821 to 1921.**

From 1821 to 1921, the federal budget process was decentralized and chaotic from start to finish. Congress received budget requests directly from each administration in an uncoordinated, decentralized manner. There was no central core of authority in the executive branch or in Congress over the federal budget. Congress considered the budget requests in a Balkanized way, through the committee system. That budget process became unendurable after years of growing deficits at the end of the nineteenth century. In the late 19th century and the early 20th century, Congress passed a number of laws to try to coordinate, centralize, and give the president

control over the budget and spending by executive branch agencies.<sup>iii</sup>

The most significant step toward responsible federal government budgeting came with The Budget and Accounting Act of 1921 (BAA). The 1921 BAA Act was passed with good cooperation between the president and Congress in the hope of bringing better control over the federal government's budget. It gave the president power and responsibility to present to Congress all executive branch department budget estimates and spending requests, which resulted in a centralized national budget, thereafter dubbed the president's budget. The president had primary responsibility for setting spending priorities and proposing cuts from the agencies.<sup>iv</sup>

The debate that preceded passage of the act brought forth many suggestions, with congressmen always mindful of maintaining their power over appropriations and expenditures. Borrowing from the British parliamentary system, some budget reformers tried to weaken Congress by prohibiting it from appropriating any money unless it had been requested by the head of a department, or by a two-thirds vote, or to pay a claim against the government. These and many other proposals were rejected. The president was empowered to present a budget, but thereafter it became a "legislative budget," enabling lawmakers to change it any way they wanted by simple majority vote. Congress refused to be subordinated to the president's budget, a theme that continues today.<sup>v</sup>

The 1921 reform also created a new Bureau of the Budget (renamed the Office of Management and Budget in 1971) that expanded the president's control over budgetary information and gave him the power over executive branch budget planning by requiring agencies to send him an annual budget proposal. The president could then assess the agencies' proposals, accept or

reject their provisions and create from the proposals and his policy objectives a budget for the federal government, which he would submit to the Congress. The Congress did not take additional budgetary powers in this reform; thus, it did not get any additional methods to establish and enforce budgetary priorities or coordinate actions on spending and revenue legislation. Congress had neither the capacity, nor the statutory authority to develop budgetary analyses or economic information independently of what it received from the president and the executive branch generally.<sup>vi</sup> For fifty years after passage of the 1921 BAA, the congressional budgetary process and the constitutional “power of the purse” simply meant adding up the decentralized decisions about appropriations from the House and Senate Appropriations Committees, each with thirteen subcommittees.<sup>vii</sup>

### **Reforms of the 1940s to the 1960s**

Efforts to give the Congress more control over the budget were also made during the 1940s; however, none of these reforms succeeded. For example, the Joint Committee on the Reduction of Federal Expenditures, consisting of the House and Senate Appropriations Committee members was created in 1941 to bring more budgetary analysis to the process. The staff of the Joint Committee tracked congressional spending decisions using executive branch Bureau of the Budget estimates on a regular basis, but only when Congress was in session. They had to rely on executive branch data that was often late and overly optimistic. Another major reform in 1946 resulted in the creation of the Joint Committee on the Legislative Budget and was made up of members of the House and Senate Appropriations Committees, the Senate Finance Committee, and the House Ways and Means Committee. The 1946 joint committee was to meet at the beginning of each session of Congress and re publish regular scorekeeping reports of

congressional action and report to their respective houses a legislative budget for the ensuing fiscal year. A concurrent budget resolution with a limit on maximum amount to be appropriated during the year was to be passed each year. If estimated expenditures were to exceed estimated receipts, the resolution was to include a statement that it was the sense of Congress that the public debt would be increased by that amount. Further attempts were made in 1947 and 1948 to carry out the intent of the legislative budget provision. However, in 1947, conferees were unable even to reach a final agreement. In 1948, both Houses adopted a joint resolution, but a strongly worded minority report noted basic defects in the procedure. Although Congress continued to try to increase its power to effectively oversee federal government expenditures and check the president's power over the budget, it did not comply with the act after 1949 or challenge the president. In the 1950s and 1960s the budgeting and appropriating system worked relatively well, but from 1966 to 1973, the House and Senate appropriations, authorizations, and tax committees repeatedly confronted the president over spending and taxing priorities. The system finally had to be repaired. Allen Schick called this period "The Seven-Year Budget War," which led to the budget reforms in 1974.<sup>viii</sup>

### **The Congressional Budget and Impoundment Control Act of 1974**

Two major developments in the 1970s created the environment for the passage of the Budget Act and Impoundment Control in 1974.<sup>ix</sup> The first was an increasing realization by Congress that it had no means or authority to develop an independent overall budget plan of spending and revenues. Congress was responding to the president's budget each year in a piece-meal fashion. The second

was a direct challenge to Congress by President Richard Nixon's use of "impoundments," the withholding of authorized and appropriated funds.

The first chair of the Senate Budget Committee, Senator Edmund Muskie, on June 21, 1974 concluded that, "During the past half century, the Congress has witnessed a steady erosion of its control over the budget. In contrast, we have seen a consistent escalation of executive influence over budget and fiscal policies. The Congressional Budget and Impoundment Control Act of 1974 will give us the means to reverse that erosion."<sup>x</sup>

Congress had neither framework nor independent source of budget data to establish its own spending priorities before it began work on the president's specific spending and revenue bills. Many members objected to the executive branch's control of budgetary information and questioned the objectivity of economic assessments produced by presidential appointees. Congress had no timely, authoritative, and independent way to challenge the president.

The Nixon impoundments compounded an already critical situation. President Nixon repeatedly asserted authority and withheld money from federal agencies that had funds appropriated by Congress.<sup>xi</sup> The resulting public confrontation between the president and Congress helped trigger the demand to reform the congressional budget and impoundment processes, which led to passage of the Congressional Budget and Impoundment Control Act of 1974 (CBICA), which was reluctantly signed into law by President Nixon on July 12, 1974.<sup>xii</sup>

With the enactment of the 1974 CBICA Congress reestablished its constitutional control over the power of the purse in several ways. First, the

law, in Title X, set forth new procedures for controlling presidential impoundments of funds, putting an end to presidential impoundment abuses by establishing a constitutional way of reviewing presidential spending delays (deferrals) or demands to abolish programs (recessions) through the impoundment process.<sup>xiii</sup>

Second, the 1974 budget reform also included a formal process for the first time in its history, the concurrent budget resolution, and a congressional budget plan through which the Congress could develop, coordinate, and enforce its own budgetary priorities independently of the president. The 1974 budget reform law also created House and Senate Budget Committees that were authorized to do continuing studies of the national budget, including budget reform proposals. Each chamber of Congress was given a committee responsible for looking at the entire budget: appropriations, authorizations, revenues, tax expenditures, and credit policy. Under the act, the concurrent budget resolution is developed by the Senate and House Budget Committees and sets total levels of spending and revenues, as well as broad spending priorities. It is approved by the House and Senate, but is not signed by the president. It does not have the force of law and provides no spending or taxing authority. But it is a powerful and influential internal plan to guide congressional action and to set total levels of spending and revenues as well as to set forth broad spending priorities. The concurrent budget resolution is often used to directly challenge the president's budget estimates and preferences.

Third, the Congressional Budget Office (CBO) was also established under the act. CBO, staffed by economists, policy analysts, and other budget experts, provides the budget committees and the Congress with an

independent, nonpartisan source of high quality budgetary and economic information. The 1974 budget reform strengthened congressional budgetary power by establishing an effective CBO that provided the analytical support to Members of Congress that made them less reliant on the president, his Office and Management and Budget and the executive branch for timely analytic information about spending and taxing and the economy generally. Over the years, CBO has maintained a solid reputation by providing nonpartisan, professional assistance. It has helped to protect the system of checks and balances, the congressional power of the purse, and protect an independent legislative branch.<sup>xiv</sup>

The original objectives of the Congressional Budget and Impoundment Control Act, as stated by its authors and promoters, were ambitious: to complete appropriations and budget decisions in a timely fashion, to control budget deficits, to limit growth of federal spending, to improve the way priorities get set among different types of spending (defense vs. domestic), to set congressional fiscal policy, to improve the information and knowledge for budget decisions, to establish a procedure to overcome presidential impoundments, and to compete more effectively with the president and executive branch over the federal budget by centralizing the congressional budget process.<sup>xv</sup>

David Obey, a former Member of Congress and chair of the House Appropriations Committee, a vocal critic of the post 1974 congressional budget process, captures the evaluation by many Members of Congress about the budget process in the late 1970s and early 1980s that led to further reforms in 1985:

Under the existing conditions the only kind of budget resolution that can pass today is one that lies. We did in under Carter, we have done it under Reagan, and we are going to do it under every president for as long as e can, because you can not get members under the existing system to face up to what the real numbers do. You always wind up having phony economic assumptions and all kinds of phony numbers on estimating.<sup>xvi</sup>

### **The Balanced Budget and Emergency Deficit Control Act of 1985 and 1987 Amendments: Gramm-Rudman Hollings I and II<sup>xvii</sup>**

In the face of ever increasing budget deficits in the early 1980s, Congress enacted the 1985 Balanced Budget and Emergency Deficit Control Act (commonly known as Gramm-Rudman-Hollings I—named after the Senate authors of the original bill (Senators Phil Gramm of Texas, Warren Rudman of New Hampshire, and Ernest F. Hollings of South Carolina).

GRH revised established deadlines for major aspects of the budget process in order to increase timeliness and efficiency of congressional budgeting and to focus attention on reducing the deficit. To enforce the deadlines, GRH mandated sequestration (automatic spending cuts) that must occur, if the federal budget did not fall within \$10 billion of the deficit targets. If the proposed budget did not meet the targets, the president was required to include spending cuts that were to be evenly divided between domestic and defense discretionary programs, until the targets were met. However interest payments and most entitlement programs were “off-budget,” partially or totally exempt from the potential cuts, which meant that

most of the budget could not be included in the automatic cuts (sequestration).

GRH I gave the General Accounting Office (GAO, presently called the Government Accountability Office)) the responsibility for triggering sequestration. However, in 1986, the Supreme Court declared that part of the legislation unconstitutional because it gave a legislative support agency executive function.<sup>xviii</sup> In 1987, Congress responded to the court decision by passing the Balanced Budget and Emergency Deficit Control Reaffirmation Act (GRH II), which corrected the constitutional flaw by assigning all the sequester responsibilities to the Office of Management and Budget (OMB). Most importantly, GHR II also revised the original targets in accordance with more realistic economic assumptions. Aaron Wildavsky concluded that GRH was,

. . . the imposition of a formula for replacing the power of the purse, the most important congressional power. It is an abdication of power. Congress is saying that it is out of control. It cannot help itself. Therefore, guarding against its own worst tendencies in advance, Congress anticipates its collective “unwisdom” by taking away its discretion.<sup>xix</sup>

Congress soon realized that despite GRH I and II procedures, the deficit continued to grow. By the spring of 1990, it became clear that the deficit was going to exceed the GRH’s maximum deficit limit by nearly \$100 billion. Later that year, OMB estimated that a sequester of \$85 billion would be necessary to eliminate this excess deficit amount. Because Congress had exempted most of the budget from the sequester process, such

a sequester order was going to require a 32 percent reduction in defense programs and a 35 percent reduction in non-defense programs. To respond to growing deficits, President George H. W. Bush and the congressional leadership agreed to convene negotiations on the budget in May of 1990.

### **The 1990 Omnibus Budget Reconciliation Act and Budget Enforcement Act**

Because the 1974 act and GRH I and II failed to meet their intended goals of deficit reduction, Congress changed the rules again with passage of the 1990 Omnibus Budget Reconciliation Act (OBRA) and the 1990 Budget Enforcement Act (BEA). The bipartisan agreements were intended to bring more congressional control over spending, foster more efficient negotiated compromises, reduce deficits, and provide political cover for unpopular election-year decisions.<sup>xx</sup>

The OBRA and BEA reforms further centralized power within Congress and required “zero-sum” choices; that is, reductions in one program must be traded for increases in another. In December 1990, the CBO estimated that BEA provisions promised to reduce the cumulative deficit by about \$496 billion for 1991-1995. The most visible change was the elimination of the GRH fixed deficit targets, but other innovations had a major impact on the budgetary powers of both Congress and the president.

The 1990 BEA specified a number of savings for each of five years covered by a multiyear budget plan. Through FY 1993, sequestration was linked to discretionary spending ceilings in three categories of government programs- defense, domestic, and international- rather than the entire budget such as all the entitlement programs (that made up almost fifty percent of the budget). These statutory caps or ceilings were perhaps the most significant aspect of the BEA reforms. Each ceiling was enforced by a sequestration

applied across-the-board to all of the programs *within* a category that exceeded its spending limits, a process called categorical sequestration. It would be triggered only if the spending limits of any or all of the categories were exceeded due to changes in legislation. If the limits were exceeded because of changes a downturn in economic conditions or national security crisis (Persian Gulf War), sequestration would not be triggered.

The BEA also provided for firewalls, which blocked the transfer of savings from one category to spend in another (e.g. from defense to domestic). The BEA's firewalls set separate caps on defense, international, and non-defense discretionary spending for fiscal years 1991–1993. The BEA also provided two enforcement mechanisms to hold spending at these cap levels. Under the BEA, in the Senate, a three-fifths positive vote was needed on a point of order when appropriations legislation would cause spending to exceed any one of these caps. In addition, if appropriations legislation was enacted that caused spending to exceed one of these caps, the president was required to reduce spending through across-the board reductions (a sequester order) in that category to bring spending back down to the cap level. Prior to 1990, for example, defense spending had been reduced in order to fund higher non-defense spending. As a result of these caps on subsets of discretionary spending and the firewalls, defense could not be further reduced in order to increase spending for non-defense programs, if it would cause total non-defense spending to exceed its cap level.

The 1990 BEA and OBRA included a major reform called the pay-as-you-go (PAYGO) procedure, one of the most important parts of the reform. <sup>xxi</sup> PAYGO required Congress to pay for any changes to programs or the creation of new programs that result in an increase in spending. Nonexempt

entitlement spending was to be cut automatically to make up for any increase in the deficit caused by the passage of legislation that increases entitlement benefits, or extends benefits to more people, or leads to revenue reductions. PAYGO made the budget process a zero-sum game, the most important consequence of the 1990's budget reforms. The primary impact of PAYGO was to discourage spending, which, in turn, reduced the deficit in absolute dollars as well as a percentage of gross domestic product. The difficulty of either raising taxes or cutting popular existing mandatory programs effectively curtailed the creation of new programs.

### **Government Shut Down, Balanced Budgets and Return to Deficits, 1992-2008**

The 1990 budget agreements caused President H.W. Bush to break his pledge, "read my lips, no new taxes," which helped President Clinton get elected in 1992 and set up an immediate conflict with the Republican Members of Congress. Because of Clinton's budget, the Omnibus Budget Reconciliation Act of 1993 sought further spending cuts and it included increases in taxes on the wealthy, it narrowly passed the House (219-213), and by a tie breaking vote cast by Vice President Al Gore in the Senate.

Clinton's deficit reduction measures included a goal of reducing the budget deficit over a five-year period by \$496 billion. In this way, the annual deficit will be brought down to \$212 billion by 1998. His five-year deficit reduction plan was to be achieved by \$255 billion in budget cuts and \$241 billion in revenue increases. The BEA's enforcement procedures were extended through 1998. Categorical spending ceilings continued through fiscal years 1994-1995.

President Clinton pursued bold domestic policies like health care reform in his first two years in office. A reaction in the electorate was the election of large Republican majorities in the House and the Senate in 1994 that brought divided party government and had an immediate impact on the congressional budget process and the repeated clashes over federal spending and taxing. The new Speaker of the House, Newt Gingrich, stated in his first address to the Republican caucus, “The budget is the transformational document for the system. When you’ve changed the budget, you really have changed government, and until you change the budget, you’ve just talked about changing government.”<sup>xxii</sup> The House Republicans promised to balance the budget by 2002 in the 104<sup>th</sup> Congress. They instituted a centralized, top-down, disciplined congressional budgetary process. It was designed to limit the power of agencies and their supportive interest groups. It also discouraged individualism (earmarks, “backdoor” authorizations on appropriations bills, and other actions) by members of Congress.

A confrontation between Speaker New Gingrich and President Clinton over the FY1996 budget resulted in a shutdown of the federal government in late 1995-early 1996. The White House portrayed the House Republicans as extremists. The Republican shutdown strategy failed and it took until April 1996 to pass a compromise FY 1996 budget. In the end President Clinton and the House Democrats had to adjust to the new Republican agenda in the 104<sup>th</sup> Congress, but the Republicans had to compromise and learn that the president had substantial power through the veto and public opinion.<sup>xxiii</sup> As a result of the government shutdown, confrontation and compromise, between congressional Republicans and President Clinton, the deficit came down to 1.4 percent GDP in FY 1996, the lowest in more than two decades. The outcome of the battles over fiscal issues between President Clinton and

the Republicans were sorted out by the reelection of Clinton in 1996. Clinton's victory brought progress on the budgetary problems that divided him and the Republicans for the previous two years. In his 1997 State of the Union address, President Clinton announced his plan to balance the budget for the first time in 27 years. Later that year, he signed the Balanced Budget Act of 1997, a major bipartisan agreement to eliminate the national budget deficit. As a result of tough and sometimes unpopular choices and compromise by Republicans and President Clinton the two major deficit reduction acts of 1993 and 1997, that federal government saw eight consecutive years of fiscal improvement for the first time in America's history and four years of surpluses. The concentrated power of the House budget process began to dissolve into the more decentralized and chaotic decision-making system giving members more power to represent local interests rather than centralized party interests.<sup>xxiv</sup> The revolutionary budget cutters of 1995-96 evolved into pragmatic constituency program protectors.<sup>xxv</sup>

On January 6, 1999, President Clinton stated, "Today I am proud to announce that we can say the era of big deficits is over. Just as exploding deficits were the symbol of government failing its people in the 1980s, these surpluses are a symbol of a government that works in the 1990s and beyond."<sup>xxvi</sup> Bruce Reed, a Clinton advisor, said, "Bill Clinton may be the only leader in all of history to leave a budget surplus of such magnitude for his successor to figure out how to use."<sup>xxvii</sup>

President George W. Bush abandoned the fiscal discipline of President Clinton by passing major tax cuts, by increasing defense spending on two wars, and through domestic program growth in response to the 9/11 terrorists attacks. Congress easily agreed with these spending and taxing

policies. President Bush transformed the four years of budget surpluses under President Clinton into eight years of large budget deficits. He inherited a record 1.3 percent of GDP surplus and left office with a 3.2% GDP budget deficit.

### **Congress, President Obama and the Budget Process**

President Barack Obama summarized the economic and budgetary state he inherited as follows:

We are inheriting an enormous budget deficit...(of) over a trillion dollars. That's before we do anything. And so we understand that we've got to provide a blood infusion into the patient right now, to make sure that the patient is stabilized, and that we can't worry short-term about the deficit. We've got to make sure the stimulus is large enough to get the economy moving.<sup>xxviii</sup>

At the beginning of the 2009, the Congressional Budget Office predicted “a recession that will probably be the longest and deepest since World War II,”<sup>xxix</sup> President Obama took bold moves in his first two years to help the economy and to control increased spending on health care: the stimulus bill and health care reform and Congress supported him.<sup>xxx</sup> President Obama's stimulus package was fifty times larger than the \$16 billion that President Clinton had failed to enact in 1993.<sup>xxxi</sup>

The electorate reacted to President Obama's policy agenda with an historic “wave election” bringing in 87 new conservative freshman (86 signed a no new taxes pledge, half were associated with the Tea Party movement) into the House of Representatives. The election was partially about Obama's “expansive government,” but also about the federal

government budget debt and deficit. With renewed alarm about the ballooning deficit and debt in 2010, President Obama created the Fiscal Responsibility Commission (co-chaired by former senator Alan Simpson and former White House Chief of Staff Erskine Bowles). The purpose of the commission was to come up with a balanced bipartisan way to turn around the growth of the deficit during a recession. The Simpson-Bowles commission report recommended tough proposals of what President Obama originally wanted such as cuts in entitlement programs like Social Security and Medicare and an end to popular tax deductions and higher taxes for the wealthy. Both Democrats and Republicans objected to the commission's recommendations. Democratic leaders objected to the commission's report, in Nancy Pelosi's words, it was "simply unacceptable."<sup>xxxii</sup> President Obama was not about to push the plan without Republican support in Congress and with strong opposition from his own party.

After the midterm election, President Obama agreed to extend all the 2001 and 2003 Bush income tax cuts for two years. The estate tax would not be abolished, but was cut substantially below 2009 level for 2011 and 2012. In return, President Obama received a 13-month extension of unemployment benefits, continuation of some of the stimulus tax credits for two years, and a temporary tax cut for business investment, and a temporary tax cut in the Social Security payroll tax. The entire package grew the deficit. It would cost \$900 billion over two years adding substantially to the national debt.<sup>xxxiii</sup>

Throughout all of 2011 a series of negotiations and confrontations occurred over the spending and taxing in the budget. There was great concern by the American public and political leaders about the rapidly growing deficit and debt. After averting a federal government shutdown in May 2011, the

negotiations between Vice President Biden and House Majority Leader Eric Cantor failed. The rejection of the Bowles-Simpson Commission recommendations and the failure of the Biden-Cantor two month negotiations led to President Obama and Speaker John Boehner to work directly together into July 2011 to reach a “grand bargain” of modest tax increases, entitlement reforms and other spending cuts. These negotiations failed and led to President Obama and Republicans agreeing to raise the debt limit enough for about eighteen months more of government borrowing and to create a bipartisan Super committee. Congress and the president were forced to focus on budget negotiations that produced new cuts and a new process for tax reform and spending cuts.

#### **The Super committee and the Budget Control Act of 2011<sup>xxxiv</sup>**

The Joint Select Committee on Deficit Reduction (the “Supercommittee”), was established August 2, 2011, after months of conflict and the abortive negotiations between the White House and congressional leaders over how to slow the growth of the government’s deficit and debt.<sup>xxxv</sup> House and Senate Democrat and Republican leaders selected Supercommittee members with an equal number from each party in the House and the Senate with the goal of building a bipartisan agreement to reduce the deficit. The twelve Super committee members were generally part of and reflected the views of the leadership; they were experienced and individually and collectively had extensive knowledge about issues surrounding attempts to reduce the deficit.<sup>xxxvi</sup> Republicans and Democrats who were selected for the Super committee represented key powerful committees and constituencies in the House and Senate.<sup>xxxvii</sup>

The Budget Control Act (PL 112-25) raised the federal debt ceiling, thus preventing the debt default of the federal government; cut spending; and created the Super committee, granting it extraordinary scope and power.<sup>xxxviii</sup> The powers included the charge of crafting a recommendation by November 23, 2011, encompassing at least \$1.5 trillion in additional deficit reduction over a ten-year period, beyond the \$917 billion cuts made as a first installment in the Budget Control Act. Everything was supposed to be “on the table” for negotiation: revenue tax increases; tax reforms, such as simplifying the tax code and eliminating some tax breaks and loopholes; and reforms to slow down the growth of entitlement programs, such as Social Security, Medicaid and Medicare. Should the Super committee not agree on a recommendation or the full Congress fail to pass the Super committee’s recommendation, a "trigger mechanism" requiring enactment of \$1.2 trillion in automatic spending cuts was included. The Super committee was given the power to operate entirely outside the budget, appropriations, and authorizing process. It could receive recommendations from relevant committees, but was not bound by anything the panels submitted.

The \$1.2 trillion across-the-board spending cuts had to be split between the national security and domestic programs, with the some of the biggest entitlement spending, Medicaid, food stamps, jobless benefits, and veterans’ pensions excluded, thus setting up for the Super committee a table of choices, but removing the largest targets from the automatic cuts. It took the regular legislative process entirely out of deciding the federal government budget priorities. The threat of the automatic across-the-board spending cuts was intended be sufficiently "distasteful to lawmakers" to provide a strong incentive for them to adopt a bipartisan agreement, but the

chance to avoid action was a major factor in dooming the Super committee's deliberations and outcome.<sup>xxxix</sup> For a second time, automatic-spending cuts proved insufficiently draconian to guarantee action.

The compromise did not occur. The Super committee failed in its mission, informing Congress, the President and the public on November 21, 2011, that they had been unable to reach agreement on a deficit reduction plan by the statutory deadline.<sup>xl</sup> The Super committee issued the following rather lame statement:

After months of hard work and intense deliberations, we have come to the conclusion today that it will not be possible to make any bipartisan agreement available to the public before the committee's deadline.<sup>xli</sup>

After the failure of the Super committee to propose a deficit reduction plan, there were partisan statements from both parties condemning the failed outcome. The president and congressional leaders immediately raised the specter of new taxes and cuts in popular domestic programs and defense, wedge issues that define the deficit and debt and that continue to figure so prominently in the permanent campaigns. President Obama accused congressional Republicans of rejecting a "balanced approach" to deficit reduction arguing that the deficit reduction plan should have included tax increases for the wealthy. He said,

Despite the broad agreement that exists for such an approach, there are still too many Republicans in Congress that have refused to listen to the voices of reason and compromise that are coming from outside of Washington.<sup>xlii</sup>

Senate Majority Leader Harry Reid, D-Nevada defended Democrats, stating they,

. . . were prepared to strike a grand bargain that would make painful cuts while asking millionaires to pay their fair share, and we put our willingness on paper. . . but Republicans. . . never came close to meeting us halfway.<sup>xliii</sup>

Senate Republican Minority Leader Mitch McConnell of Kentucky, argued that an agreement

. . . proved impossible not because Republicans were unwilling to compromise, but because Democrats would not accept any proposal that did not expand the size and scope of government or punish job creators.<sup>xliiv</sup>

The Republican presidential candidates argued that President Obama failed to use his leadership to build an agreement to cut the deficit.

Why did the Super committee fail? Was the Super committee predestined to fail because of its structure, membership and ideological make-up? Did President Obama and party leaders in Congress fatally withhold leadership and support? The primary reasons for the failure of the Super committee were both internal and external to Congress: the president and party leaders did not show strong leadership, public opinion was not enthusiastic about its goals, interest groups wanted the status quo . . . no change for their favorite spending and tax programs, and the ideological gaps between the two parties were insurmountable.

What faces Congress and the nation because of the Super committee's failure? The stature of the Supercommittee members and the seriousness of their charge and the importance of deficit reduction guaranteed substantial publicity that raised expectations for success.<sup>xlv</sup> The twelve members met September 8, 2011, to begin work. It was their only public meeting outside of four hearings used to question budget experts on ways to control the federal debt. However, the members met in small groups and as a whole dozens of times in private, trying to strike a deal to meet the statutory goal of at least \$1.2 trillion in deficit reduction over the next decade. Members of both parties maintained their "Democrat" or "Republican" identity throughout the process. Inevitably, the proposals from Democrat and Republican members failed to bridge the vast partisan divide between the two parties on deficit reduction through tax increases and spending cuts. Democrat panel members proposed a combination of spending cuts and revenue increases of between \$2 and \$3 trillion over ten years. The Republican proposals focused on saving over \$2 trillion primarily through cuts in spending. Both sides attempted to compromise, with Republicans offering \$300 billion in new tax revenue, a proposal that was untenable to their own members who had taken a "no new tax" pledge. Democrat members proposed to cut hundreds of billions of dollars from federal health care programs, a proposal that angered the base of the congressional Democrats. Ultimately, the Republican members, influenced by their colleagues who had made a no new tax pledges, were unable to make tax reform offers that were large enough to satisfy Democrats. Democratic committee members did not make proposals to cut entitlement programs (Medicare and Medicaid) sufficient to please the Republicans and the Supercommittee gave up.<sup>xlvi</sup> The Super committee, even with its

extraordinary potential powers, could not overcome the partisan gridlock that has prevailed over deficit reduction for years.

President Obama and Republican and Democrat congressional leaders and various groups such as the “Gang of Six” could not find a bipartisan agreement. The President offered his own package of tax hikes and spending reductions, but did not to put the personal weight of his office behind it. In fact, he left the country as the Supercommittee talks came down to the wire. House Speaker John Boehner and Senate minority leader Mitch McConnell were neither vocal nor visible during the final negotiations. Senate Majority Leader Harry Reid and House Democratic Leader Nancy Pelosi were also unwilling to use political capital and work hard for a deal. The leaders did not push for public agreement, and if they exerted private pressure, it was not effective. This seeming inaction can be interpreted several ways: The leadership believed the Super committee would function best if left alone; They exerted their influence through private meetings and phone calls to no avail; The leaders either did not care or did not want a deal; or the president and congressional leaders felt their party would have an advantage in the 2012 election by blaming the other party for the failure. Whether President Obama and the congressional party leaders were weakened by the procedural power of the Super committee, took a pass on the Super committee negotiations because of previous failures, or they wanted to delay the tough budgetary decisions about cuts and tax increases until after the 2012 election, is not known, but it is clear the president and the congressional leaders did not play a leadership role with the Super committee in building a successful bipartisan solution to deficit reduction.

Public interest and support of a realistic budget agreement waned. A *National Journal* survey found that only slightly more Americans favored a Democratic proposal to reduce the deficit with cuts and revenue increases on the wealthy rather than the Republican cuts-only approach.<sup>xlvi</sup> By a margin of 5 percent, 49 percent to 44 percent, the public favored the Democratic plan suggested in October 2011 that would have included “\$4 trillion in deficit reduction through a combination of federal spending cuts and tax increases on wealthier Americans” over “a Republican plan that calls for \$3 trillion in deficit reduction through spending cuts alone, with no tax increases.”<sup>xlviii</sup> The survey of voters showed that the American people seem no more unified than the Members of Congress and the Supercommittee members on deficit reduction solutions. The poll and many other surveys showed a decided lack of confidence in Congress to get anything done with historic low evaluations of Congress shortly after the Supercommittee failure. A CNN-ORC International public opinion survey conducted November 11–13, 2011, reported that 19% of respondents would hold both parties responsible for failure to reach an agreement; 32% of respondents thought Democrats would have a greater responsibility, and 42% Republicans.<sup>xlix</sup> A Quinnipiac University conducted November 14–20, 2011, revealed that voters blamed the looming impasse on congressional Republicans 44% to 38% over President Obama and congressional Democrats, a mere 6 percentage point difference.<sup>l</sup> A Gallup poll conducted on November 21, 2011 after the Supercommittee announced its failure found that 55% blamed equally the Republicans and the Democrats on the committee, with 24% blaming the Republican members more and 15% blaming the Democratic members more.<sup>li</sup> Public opinion might have been used as a partial justification by the congressional parties participants to do

nothing. It also provided President Obama justification to avoid being heavily invested in another failed congressional deficit reduction process.

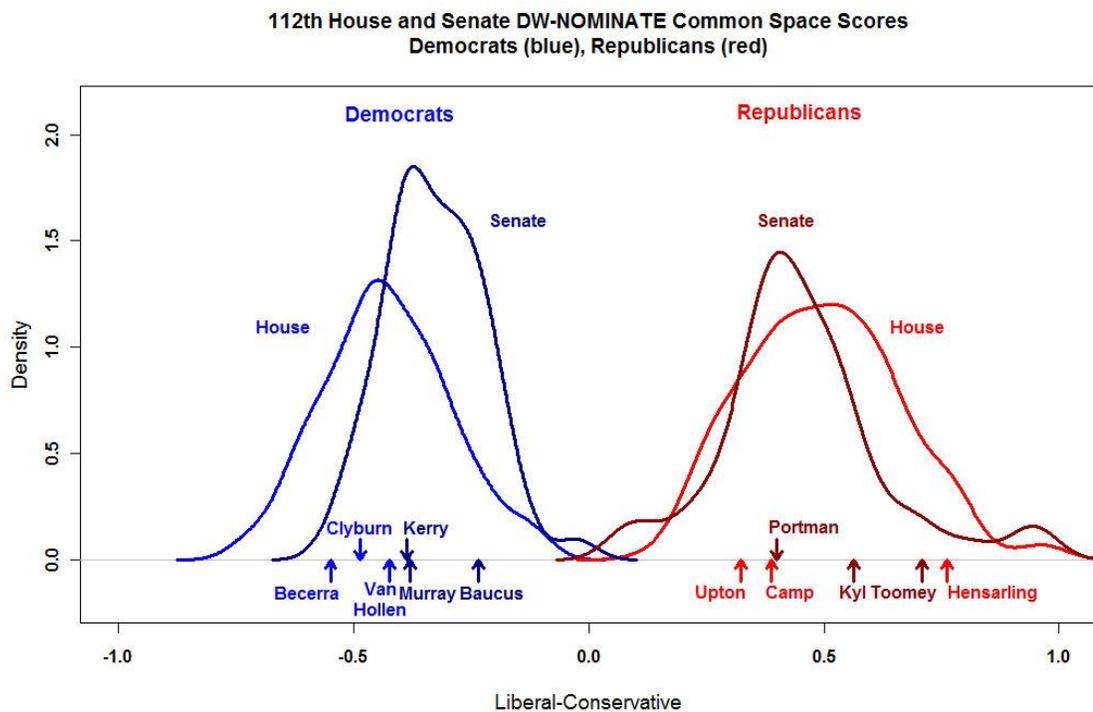
In the end, there was not overwhelming public support for a balanced plan of tax increases and cuts in popular entitlement programs. Without strong public support for a balance deficit reduction plan of cuts and tax increases and with the public blaming Congress for the Super committee's failure, there was political cover for President Obama and fresh political fodder for the 2012 campaign

Strong interest groups were also not pushing hard for change through cuts and tax increases. Generally, they were silent or they were lobbying for no change, the status quo, for their programs.<sup>lii</sup> The AARP, health care organizations and unions were prime examples of this; they expended large sums of money for advertising, grassroots, and direct lobbying on Capitol Hill to stop cuts in popular programs for elderly Americans, health care and union workers. There were few groups or think tanks pushing for the hard choices that needed to be made to have real reduction in the growth of deficits and debt. One exception was the Center for a Responsible Federal Budget, with its board of directors made up of former Budget Committee chairs and former directors of the Office and Management and Budget and CBO who all pushed to "Go Big" (\$4 trillion or more in deficit reduction in ten years) on a deficit reduction plan through entitlement spending cuts and tax increases.<sup>liii</sup>

But maybe none of this mattered because of the lack of bipartisanship and ideological polarization in the Congress and among the people they represent. It might be there was never a chance for success because the

schisms fundamentally undermined the capacity of the Super committee to find common ground. The graph of the DW-NOMINATE Common Space Scores for House and Senate Democrats and Republicans in the 112<sup>th</sup> Congress and for their representatives on the Super committee, summarizes and illustrates the ideological divisions.<sup>liv</sup> The missing ideological middle and the widespread partisan differences reveal the underlying problem of finding common ground on a solution to reducing the deficit.

Graph 1. Party and Super committee Common Space Scores



Source: Poole graphic accessed 3/21/12 from <http://enikrising.blogspot.com/2011/08/supercommittees-ideal-points.html>. Used with permission from Poole.

Bipartisanship has been rare in Washington over the past fifteen years,

especially when it comes to tax increases and cuts in popular domestic programs. The Super committee members could not blunt their ideological differences and find a common ground as shown in the graph above.

There is little common ground with regard to primary issue of the size of the federal government. Mainstream Democrats believe government should play an important role in the economy and provide a safety net for the disadvantaged. They also want high-income people to pay more taxes to fund those programs. A majority of Republicans disagree. They want to limit government's many domestic administrative actions, characterizing a wide range of regulations as interference in markets. They disagree with many social safety net programs and they believe taxes are too high. They promise smaller government and no new taxes while cutting the deficit and reducing the debt. There was little chance twelve rank-and-file politicians could agree to compromise or ever get the votes from their party members to bridge that chasm.

The ideological divide was most evident in Republicans' refusal to shift or fudge on their no-tax pledge and Democrats insistence on tying spending cuts to tax hikes. In the end, this was almost certainly the biggest single factor influencing the committee's failure. As long as the GOP leadership remains trapped in its commitment to never raise taxes, there will be no serious fiscal agreement. Any Republican who dares to stick his head out of the "no new tax" foxhole and hint at a willingness to consider revenues will be barraged with friendly fire. Democrats were never going to agree to cuts in Medicare and Medicaid without significant GOP concessions on taxes. However, with enough political cover from President Obama, Democrats might have reluctantly moved on those entitlements in exchange for some

new revenues. An observation by David Axelrod, President Obama's senior aide, applies to the president's inability to lead on this issue. Axelrod believed there was a miscalculation about the president's ability to bridge the ideological gap between the two parties. He reflected that, "Perhaps we were naïve, but Obama believed that in the midst of crisis you could find partners on the other side of the aisle to help deal with it. I don't think anyone here expected the degree of partisanship we confronted."<sup>lv</sup> Timing was also likely a factor in preventing president to provide political cover and, as the 2012 election neared, Democrat's unwillingness to take on their own base over major federal spending programs only grew.

### **Evaluating The Congressional Budget Reforms, 1974-2012**

What does the last 40 years tell us about the congressional power of the purse? Congress has centralized and strengthened its budgetary since passage of the 1974 congressional budget reform but it has failed to meet many of the reform goals. Allen Schick called the 1974 Budget and Impoundment Control Act a "treaty" among warring tribes on the Hill and between Congress and the president.<sup>lvi</sup> The budget process has helped to change major policies and to focus on the deficit and the debt, but the warring tribes were not quieted over the last forty years. The tax cuts of Presidents Ronald Reagan and George W. Bush, welfare reform and budget surpluses under President Clinton and many efforts in the 1990s to reduce the deficit and debt are all examples of using the budget process and reconciliation to pass new policies. However, there has been continued and widespread unhappiness with the reformed congressional budget process.<sup>lvii</sup> Louis Fisher concluded in 1990 that, "the current budget followed by

Congress and the president is embarrassing both in operation and results.”<sup>lviii</sup>

By many indicators, the congressional budget and appropriations processes seem to be seriously broken and in need of further reform. There is a too often a heavy reliance on omnibus appropriations bills, “minibus” appropriations, and additional riders and earmarks added to must-pass appropriation bills as a crutch to act on significant policy issues, often done late at night, out of the public view. It is prone to crisis management and is continually late at every step of the budget and appropriations process. There are too many continuing resolutions and omnibus spending bills. Continuing resolutions, a temporary stopgap funding measure whenever Congress cannot complete action on one or more of the twelve regular appropriations bills by the beginning of the fiscal year (October 1) is an especially egregious problem. In the past continuing resolutions were only used for short periods (one or two months). Or example, a record twenty-one continuing resolutions were needed in 2000 before the Republican Congress and President Bill Clinton compromised on their differences on the appropriations bills. Partisan deadlock over a continuing resolution in the spring of 2012 came within a few hours of shutting government as happened in late 1995-early 1996. The debt and deficit continue to grow at unsustainable rates. Congress is not doing its constitutionally required job of controlling the purse strings of the federal government.

Congress keeps changing the budget rules when it cannot make tough budget decisions. Former Member of Congress Lee Hamilton of Indiana concludes that,

When people call Congress dysfunctional, when they say it's not working well, the budget process is Exhibit A in that charge. It's a very serious problem. The world's greatest democracy cannot produce a budget.<sup>lix</sup>

The 2011 experience with multiple continuing resolutions and the debt limit negotiations, revealed a deadlocked Congress, and if that were not enough, the recent failure of the Joint Committee on Deficit Reduction to reach any agreement, confirms the judgment of dysfunction. Individuals and corporations who try to budget on the bases of brinkmanship, continuing resolutions and off-limit activities, often find themselves in home foreclosure and bankruptcy, respectively. It is no wonder the public has lost patience with the Congress.<sup>lx</sup>

The congressional budget process reforms have generally not met the following original goals of 1974 act:

- To complete appropriations and budget decisions in a timely and transparent fashion,
- To control budget deficits,
- To limit growth of federal spending, to improve the way priorities get set among different types of spending (defense vs. domestic),
- To set congressional fiscal policy,
- To improve the information and knowledge for budget decisions,
- To establish a procedure to overcome presidential impoundments, and

- To compete more effectively with the president and executive branch over the federal budget. The budget is consistently late. The concurrent budget resolutions have been passed on time only twice since 1976. The federal government has been forced to run on continuing resolutions and supplemental appropriations.<sup>lxi</sup> This has led to partial government shutdowns such as in 1995-1996. Congress also failed five times since 1999 to pass a budget resolution at all something that never happened between 1977 (the first year of the BICA enactment) and 1998.<sup>lxii</sup>

The congressional budget reforms did not operate in practice as they were expected to in the original goals of the 1974 budget act as well as the several other reforms in the last forty years. Because of the complexity of the budget process, it has become less transparent over time. War funding (Iraq and Afghanistan) and disaster relief spending are often made through supplemental appropriations and have made the budget process less transparent. Multiple and confusing baseline estimates that had little resemblance to traditional baselines by CBO and OMB, for that matter, made by the Obama administration for the 2011 and 2012 budgets, created confusion and less transparency in the process.<sup>lxiii</sup> Although Congress and President Clinton balanced the budget for four years in the 1990s, the federal deficit has increased steadily since 1974 to historic levels from 2009 to present. Although it was a major goal of all budget reforms, the budget process rules have not prevented the growth of deficits. The reforms have not forced Members of Congress to make hard decisions about taxing and spending in order to control the deficit.

Congress has not been able to control the growth of federal spending

simply because of the various process reforms it has enacted. Congress has improved decision making about spending priorities, but the budget process reforms did not meet the objective of forcing members to make hard decisions through neutral rules between defense and domestic spending as was hoped by the author of the 1974 budget act and other reforms over the years. All interested congressional parties were to be represented and to participate in the budget process, but failed to happen. Congress has been an important factor influencing fiscal policy, but the budget reforms did not automatically give Congress the tools to create the will for it to be the final authority over fiscal policy.

One of the most important successes of the budget reforms has been an improvement of timely information, analysis, and knowledge needed to make spending and revenue decisions. The Congressional Budget Office has been a trust and sometimes disliked “umpire” in scoring congressional actions and challenging the data from the president and the OBM.<sup>lxiv</sup>

Congress has had a constitutional and powerful way of control presidential impoundments through recessions and deferrals. In conclusion, the budget process reforms over the last forty years have given Congress ways to compete more effectively with the resident. Congress has been able to compete with the president and over the Federal budget, a primary goal of the 1974 Budget Act.

**Conclusions: Are Congressional Budget Process Reforms  
Predestined to Fail in the Age of Deficits?**

Congress has the constitutional power of the purse; the authority to authorize (promise) federal programs, to appropriate (deliver) money for them and to tax (pay) for them. What Congress has failed to do in the last forty years is to find the appropriate organizational arrangements, processes and incentives to facilitate their constitutional authority to do their job. The central question is: why is the congressional budgeting process so difficult to create and manage? Budgeting is inherently complex, made so by competition between the president and Congress in a separated constitutional system, ideological divisions of Members of Congress, partisan polarization and deadlock from the demands of different types of constituencies, regions and political parties, world events not the least, the interdependent world economy during The history of congressional budget process reforms and most recently the creation of the Supercommittee is in the context of major and expanding demands on all governments stemming from the Great Depression, war, and the international economic crisis. The reforms since 1974 seemed predestined to fail on the major objectives of controlling spending, deficits and the debt, except for the four years of the Clinton presidency. Budget reforms/plans are vulnerable to long-term consequences of short-term policy decisions that play out in a shifting global economic environment.

Does decision making structure matter? Louis Fisher concludes that ever since passage of the Budget Act of 1974, there has been a move toward greater centralization of Congress.<sup>lxv</sup> He elaborates on this point in the following statement:

The budget process appeared to look more comprehensive and formal, implying greater coherence and responsibility. But what have

been the results? Less budget control and higher deficits.”<sup>lxvi</sup> In hearings in 1990, former CBO Director Rudolph Penner also stated that prior to 1974, budget issues were handled reasonably well under the regular, “fragmented” political process, ... “disorderly as it might have appeared. Budget resolutions were widely praised because they represented a vehicle for centralized, systematic, and comprehensive legislative action.”<sup>lxvii</sup>

The Budget Control Act of 2011 and the reforms since 1974 seem to be created to avoid hard choices about long term spending cuts and tax increases. The consequence is to avoid resolving the growth in the deficit and debt and ultimately a fiscal crisis, thus buying time so that Congress could avoid painful decisions. By multiple forty years of budget reform failures, Congress has succeeded in stalling necessary hard choices. Rudolph Penner, former CBO director concluded the following about the history of congressional budget reform:

I have always been struck by the fact in looking at the history of the [budget] process that it appeared chaotic in the late 19th century and early 20th century, but the results were very good in terms of budget discipline, yielding balanced budgets or surpluses most of the time, unless there was really a good reason to run a deficit.” The budget process created in 1974 looks very elegant on paper, but it is leading to very dishonest and disorderly results. As one of those public policy analysts who thought the 1974 process was a good idea when it was first invented. I have to confess to a lot of disappointment and frustration as to how it actually worked out. I think the criticism of that process, that it was too complex and too time consuming, are right on the mark.<sup>lxviii</sup>

The latest example of congressional budget process reform complexity and impotency is the predetermined failure of the 2011 Supercommittee. Within a mere month into their negotiations, members began talking about how they would fix tough spending cuts, especially those for defense. Obviously, taking the tough spending cuts off the table left little with which to negotiate and guaranteed any cuts would be inadequate.

Lawmakers criticized the Budget Control Act legislation, objecting to its accelerated schedule, the abbreviated time members had to review the rules by which the committee would operate, and the lack of input from members and even relevant committees, on the how, when and on what issues public hearings would be held or how public the Super committee's deliberations would be. Legislators from both parties also expressed concern that the arrangement would "usurp their authority to write and revise legislation."<sup>lxi</sup> That concern had not, however, spurred them to timely action that would obliterate the need for a Supercommittee.

The purpose of the Supercommittee and GRH I-II was to force Congress to make the hard choices to trim the deficit through a spending cut trigger, but with bipartisanship and compromise missing, members continued to look for loopholes rather than a balanced deal that has been the primary pattern for the last forty years.<sup>lxx</sup>

Continued partisan gridlock and ideological warfare over the deficit, spending and taxes faces America after the failure of the latest budget process reform in 2011. The deficit and debt still grow at an unhealthy rate. Deficit reduction and the automatic cuts scheduled to take effect in January

2013, are issues in the 2012 presidential election as predicted at the time the Supercommittee failed in November.<sup>lxxi</sup> President Obama stated that he would veto any attempt by Congress to cancel the required \$1.2 trillion sequester giving rise to campaign issues and a major confrontation between Congress and the president and between the parties.<sup>lxxii</sup> The issue of solutions to deficit reduction, of major spending cuts and tax increases, were moved to the campaign trail and left for a “lame duck” Congress and the new Congress in 2013 to resolve. The drive for re-election by members of Congress made it unlikely they would take realistic spending cuts and tax reforms needed to stop the increase in the deficit during the 2012 campaign. Continuing “declining confidence” in the ability of Congress to make tough decisions about the deficit and debt will certainly have a negative impact on U.S. markets and the world economy.

The past and the future of congressional budget process and deficit reduction in American politics is linked to the inherent difficulties of our constitutional structure of separation of powers, checks and balances, federalism, large heterogeneous nation state, and the drive for reelection by Members of Congress, that collectively make any effort to reform the budget process and have coherent congressional budgetary planning very difficult. Congress will never develop a perfect, crisis free budget process. Given all these complexities and the natural boom and bust dynamics of a capitalist economy, Congress will always be revising, restructuring its decision making system for the budget in the face of new historical developments and challenges constitutional. Ultimately the will of the American people to pressure Congress to do something about the budget will break the partisan deadlock and give the president and Congress the incentive to make hard

decisions against the power of lobbyists and interest groups. The reaction of the world financial markets to continued congressional failure will also have an impact on voters and the nature of the restructuring and success or failure of the congressional budget process. It is difficult to predict how these factors will influence congressional budget reform. Maybe world markets will be the primary force that causes Congress to act. Will Congress use the regular order to deal with the deficit or will it create yet another special way to make tough decisions or will it give in to gridlock and continue to “kick the can down the road” (as President Obama complains) with regard to the hard choices they must make? Or will Congress let the problem of the deficit go away through the automatic \$1.2 trillion sequestration and by allowing scheduled Bush era tax cuts and other stimulus program tax breaks to lapse (e.g. the payroll tax cut)(which would collectively reduce the deficit by over \$6.8 trillion in the next ten years)?<sup>lxiii</sup>

Elections make a difference in the budget process. One thing is sure, and that is whatever congressional budget decisions are made or not made and how they are made (centralized or decentralized), those decisions will have a transformative impact on the future of the America. As with other congressional budget reforms over the last forty years, in the end the American voters will have the most lasting and significant impact over Congress making those hard budget choices. As always, the final say about spending, taxing, and deficits lies with the American electorate.

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<sup>i</sup> Thanks to Patrick J. Griffin, my close friend and colleague at the Center for Congressional and Presidential Studies (CCPS) who as former Assistant to the President Clinton for Legislative Affairs as well as top leadership assistant to former Majority Leader Robert C. Byrd (D-WVA) and other Senate leaders for sharing astute

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insights and wisdom about the congressional budget process from both ends of Pennsylvania Avenue. I wish to thank CCPS Ph.D. graduate assistant Arron Ray and CCPS executive assistant, Rebecca Prosky, for assisting with this research. Special thanks to my wife, Claudia Hartley Thurber, for her carefully critique and editorial recommendations for this chapter.

<sup>ii</sup> Research for this chapter is partially based upon interviews with Members of Congress, congressional staff (many who are former students), Executive of the President and White House staff, and other informed observers of the congressional budget process. Thank you to the following people for sharing their wisdom about the congressional budget process reforms: Ken Bentsen, Karl Braithwaite, Erskine Bowles, Peter Davis, Vic Fazio, Louis Fisher, Bill Frenzel, Patrick J. Griffin, Hugh Halprin, William Hoagland, Scott Lilly, Ed Lorenzen, Maya MacGuineas, David Obey, Walter Oleszek, Rudolph Penner, Robert Reischauer, Alice Rivlin, Alan Simpson, John Spratt, Charlie Stenholm, David M. Walker, and Joseph White.

<sup>iii</sup> In 1967, President Johnson appointed a Joint Committee on the Legislative Budget entitled the President's Commission on Budget Concepts to study the federal budget and its presentation. The final report of the President's Commission on Budget Concepts is the common foundation for most budgetary concepts used currently by Congress and the Office of Management and Budget.

<sup>iv</sup> Joseph White and Aaron Wildavsky, *the Deficit and the Public Interest: The Search for Responsible Budgeting in the 1980s* Berkeley: University of California Press, 1989) 7-8.

<sup>v</sup> H. Rept. No. 14, 67th Cong., 1st Sess. 6-7 (1921); 42 Stat. 20 (1921). See Statement by Louis Fisher, The Constitution Project, Before the Senate Committee on the Budget, "Improving the Congressional Budget Process," October 12, 2011, 5.

<sup>vi</sup> The Budget and Accounting Act of 1921 was enacted in response to the consensus that developed shortly after the turn of the century that a more centralized approach to financial policy and processes was needed, in both the executive and legislative branches.

The Act codified the submission of the President's budget and created the Bureau of the Budget (BOB)(the predecessor to the Office of Management and Budget (OMB)) to oversee the executive budget process. The Act also established the General Accounting Office (GAO) (now the Government Accountability Office) as the government's auditor, responsible only to Congress.

<sup>vii</sup> The classic work on appropriations is Richard Fenno, *The Power of the Purse* (Boston: Little, Brown, 1966).

<sup>viii</sup> Allen Schick, *Congress and Money* (Washington, DC: Urban Institute, 1980), 48.

<sup>ix</sup> A Joint Committee was established by the Revenue Act of 1941 composed of the members of the House and Senate Appropriations Committees that was tasked to track congressional action against the President's budget request, (using Bureau of

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the Budget estimates). Scorekeeping reports of congressional action were published on a regular basis when Congress was in session. The Joint Committee was replaced by the Congressional Budget Office following enactment of the 1974 Act.

An early predecessor to the 1974 Budget Act was The Legislative Reorganization Act of 1946 created the Joint Committee on the Legislative Budget with members from the House and Senate Appropriations Committees, the Senate Finance Committee and the House Ways and Means Committee. The Joint Committee was to meet at the beginning of each session of Congress and report to their respective Houses a legislative budget for the ensuing fiscal year. A concurrent resolution was to accompany the report adopting such a budget, that would fix the maximum amount to be appropriated during the year. If estimated expenditures were to exceed estimated receipts, the resolution was to include a statement that it was the sense of Congress that the public debt would be increased by that amount. These provisions were similar to those in the 1974 Budget Act. Attempts were made in 1947 and 1948 to carry out the intent of the legislative budget provision, but conferees in 1947 were unable to reach a final agreement. In 1948, a joint resolution was adopted by both Houses, but a strongly worded minority report noted basic defects in the procedure. No further attempts were made to comply with the Act after 1949 until the 1974 congressional budget reform was enacted. See Allen Schick, *The Federal Budget: Politics, Policy, Process* (Washington, D.C.: Brookings Institution Press, 2007).

<sup>x</sup> Congressional Budget Office, *An Introduction to the Congressional Budget Office* March 2010, 1.

<sup>xi</sup> President Nixon was not the first to assert impoundment authority, but he was by far the most effective in asserting and implementing impoundments. Nixon had impounded almost \$15 billion of spending previously approved by Congress in 1973. A large portion of these funds was to have gone towards the building of highways and water and pollution control projects, popular with both Republicans and Democrats.

<sup>xii</sup> For the details of the passage of the 1974 Act see James A. Thurber, "Centralization, Devolution, and Turf Protection in the Congressional Budget Process," in Lawrence C. Dodd and Bruce I. Oppenheimer (Eds.), *Congress Reconsidered* (Washington, DC: CQ Press, 1997) 325-346.

<sup>xiii</sup> Prior to the enactment of the Budget Act in 1974, the President would reduce federal spending after it was enacted by the Congress by impounding funds. An impoundment occurs when the President does not spend any or all of an enacted appropriation. Under title X of the Budget Act of 1974, the President can defer (delay) the obligation of appropriations or propose a rescission (cancellation) of appropriations. It is Congress' responsibility to review all proposed rescissions and deferrals. While the

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Budget Act provides for procedures to address proposed Presidential rescissions and deferrals in an expedited fashion (see section 1017), these procedures have never been invoked. Rescissions and deferrals (whether initiated by the president or the Congress) have, however, been enacted using regular Senate procedures.

<sup>xiv</sup> Philip G. Joyce, *The Congressional Budget Office: Honest Numbers, Power, and Policymaking* (Washington, DC: Georgetown University Press, 2011).

<sup>xv</sup> Title VII of the 1974 budget reform gave Congress more budgetary power by placing new responsibilities on congressional committees and the General Accounting Office (now Government Accountability Office) to evaluate federal programs.

<sup>xvi</sup> Quoted in Louis Fisher, "Ten Years of the Budget Act: Still Searching for Controls," *Public Budgeting and Finance* 5 (Autumn 1985), 15.

<sup>xvii</sup> The Omnibus Budget Reconciliation Act of (OBRA)(Gramm-Latta Resolution) passed in 1981 supporting President Reagan's budgetary proposals which called for lower taxes, higher defense spending and cuts in social programs. It was a major test of a new coalition of Republicans and conservative (mostly southern) Democrats.

<sup>xviii</sup> Immediately after the President signed the Gramm-Rudman-Hollings Act into law, Representative Michael Synar (D, OK) tested the constitutionality of the Act in the Supreme Court. The Court held that the Act was unconstitutional due to a violation of the separation of powers in the *Bowsher v. Synar* case (92 L. Ed. 2d 583). The Court said that the Comptroller General, Charles Bowsher (Head of the General Accounting Office--a Congressional office), was behaving in an *executive* manner. "By placing the responsibility for execution of the Balanced Budget and Emergency Deficit Control Act in the hands of an officer who is subject to removal only by itself, Congress in effect has retained control over the execution of the Act and has intruded into the executive function. The Constitution does not permit such intrusion." (Cushman, 109-11) Since the GAO is located within the legislative branch, only Congress has the power to remove the Comptroller General.

<sup>xix</sup> Aaron Wildavsky, *The New Politics of the Budgetary Process* (248-249. New York, New York: HarperCollins Publishers, Inc., 1992),

<sup>xx</sup> See Iwan Morgan, *The Age of Deficits: Presidents and Unbalanced Budget from Jimmy Carter to George W. Bush* (Lawrence, KS: University of Kansas Press, 2009) for a political history of federal budgeting from 1977 to 2001.

<sup>xxi</sup> For direct spending and revenues, the BEA requires OMB to enforce

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a “pay-as-you-go” requirement. The executive branch’s pay-as-you-go rule has the same effect as the point of order: Congress was required under the BEA to “pay for” any changes to programs which result in an increase in direct spending or risk a sequester. Under the BEA, if OMB estimated that the sum of all direct spending and revenue legislation enacted will result in a net increase in the deficit for the fiscal year, then the President was required to issue a sequester order reducing all non-exempt direct spending accounts by a uniform percentage in order to eliminate the net deficit increase.

xxii “Taking Speaker’s Mantle, Gingrich Vows ‘Profound transformation,’” *Congressional Quarterly Almanac* (Washington, DC: CQ Press 1995), 57D.

xxiii One major success by the new Republican majorities which was one of promises in the Republican *Contract with America*, the passage of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, 104th Cong., 1st Sess.). Congress brought more control over unfunded mandates to state and local government by deeming them unlawful. The act limits the imposition of unfunded Federal mandates on state, local, and tribal governments and the private sector without full and informed congressional consideration of the effects of such mandates before their enactment.

xxiv For a good analysis of congressional budgeting in 1995, see Barbara Sinclair, *Unorthodox Legislation: New Legislative Process in the U.S. Congress* (Washington, DC: Congressional Quarterly Press, 1997), chapter 11. Also see Barbara Sinclair, *The Transformation of the U.S. Senate* (Baltimore: Johns Hopkins University Press, 1989).

xxv See James A. Thurber, “Centralization, Devolution, and Turf Protection in the Congressional Budget Process,” in Lawrence C. Dodd and Bruce I. Oppenheimer (Eds.), *Congress Reconsidered* (Washington, DC: CQ Press, 1997) 325-346.

xxvi Quoted in Iwan Morgan, *The Age of Deficits: Presidents and Unbalanced Budgets from Jimmy Carter to George W. Bush* (Lawrence, KS: University of Kansas Press, 2009), 158.

xxvii Quoted in Iwan Morgan, *The Age of Deficits*, 205.

xxviii “Interview with Tom Brokaw on NBC’s *Meet the Press*, December 7, 2008,” APP.

xxix United State Congress, Congressional Budget Office, *The Budget and Economic Outlook: An Update* (Washington, DC: CBO, January 2009).

xxx Joseph White, “From Ambition to Desperation on the Budget,” in James A. Thurber (ed.), *Obama in Office* Boulder, Colorado: Paradigm Press, 2011) 183-198

xxxi Ibid. 187.

xxxii Jackie Calmes, “Panel Seeks Social Security Cuts and Higher Taxes,” *New York Times*, November 10, 2010.

xxxiii David M. Herszenhorn and Jackie Calmes, “Tax Deal Suggests New Path for Obama,” *New York Times*, December 7, 2010.

xxxiv Some of this discussion is from James A. Thurber, “Agony, Angst and Failure of Deficit Reduction: The Supercommittee, *Extensions*, July 2012.

xxxv The Joint Select Committee on Deficit Reduction was an unusual construct in the

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history of Congress. Former Senate Historian Donald Ritchie found inexact parallels between the Joint Select Committee and various historical joint committees. The only precedent for the committee's power to write and report legislation is the 1946–1977 Joint Committee on Atomic Energy. All other Joint Committees have not have the power to write and report legislation.

<sup>xxxvi</sup> Baucus, Becerra, Camp, and Hensarling had served on the National Commission on Fiscal Responsibility. All four voted against the Simpson-Bowles plan that emerged from the Commission.

<sup>xxxviii</sup>The 2011 Budget Act increased the debt ceiling by \$400 billion in August 2011. The Act required the federal government to make \$917 billion in spending cuts over a ten-year period as a first installment. This was based on Congressional Budget Office estimate using current-law economic baseline, including the expiration of the Bush tax cuts. Under the Act, government revenues were projected to rise after 2012.

<sup>xxxix</sup> Pear, Robert; Rampell, Catherine (August 1, 2011). "[Lawmakers in Both Parties Fear That New Budget Panel Will Erode Authority](#)". *The New York Times*. August 5, 2011. "Lawmakers from both parties expressed scorn on Monday for a central feature of the deficit-reduction deal that creates a powerful 12-member committee of Congress to recommend major changes in entitlement programs and the tax code. ..."

<sup>xi</sup> Under the terms of the August debt limit law, the panel will not officially terminate until Jan. 31, 2012. Nonetheless, its work was finished after it lost its privilege to submit legislation immune from amendment or procedural roadblocks as a consequence of missing its deadline for a vote.

<sup>xli</sup> "[Statement from Co-Chairs of the Joint Select Committee on Deficit Reduction](#)". deficitreduction.gov. November 21, 2011. Retrieved January 30, 2012.

<sup>xlii</sup> Dodge, Catherine; Kathleen Hunter (November 21, 2011). "U.S. Supercommittee Fails to Reach Agreement as Across-the-Board Cuts Loom". *Bloomberg*.

<sup>xliii</sup> Fontecchia, Augustino (November 21, 2011). "Deficit Supercommittee Officially Admits Failure." *Forbes*.

<sup>xliv</sup> Kuhnenn, Jim (November 23, 2011). "'Supercommittee failure complicates election year". *Businessweek*.

<sup>xlv</sup> A super committee plan would have advanced with a seven-member majority, if any single member deviated from party lines.

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<sup>xlvi</sup> The end came two days before the panel's November 23, 2011 deadline, in the face of a requirement that before a vote could occur, a plan would have to be available for 48 hours after the Congressional Budget Office had scored its fiscal impact. The vote would not have been subject to amendments, House "majority of the majority" blocks, or Senate filibusters, guaranteeing a pure majority vote in both chambers.

<sup>xlvii</sup> Cooper, Matthew. (November 9, 2011). "Public Split on Parties' Super Committee Ideas."

<sup>xlviii</sup> Op.Cit.

<sup>xlix</sup> "[CNN-ORC poll November 11-13](#)" (PDF). ORC International. Retrieved December 17, 2011. "If the Supercommittee does not agree on a deficit reduction plan, do you think that the Democrats in Congress or the Republicans in Congress would be more responsible for that?"

<sup>l</sup> "[November 21, 2011 - U.S. Voters Say Almost 3-1 Super Committee Will Fail, Quinnipiac University National Poll Finds; More Blame Republicans](#)". Quinnipiac University Polling Institute. Retrieved December 14, 2011. "Who do you think would be mostly to blame if the Committee and the President are not able to agree on a plan to reduce the deficit, President Obama and the Democrats in Congress, or the Republicans in Congress?"

<sup>li</sup> Jones, Jeffrey M.. "[Americans Blame Both Sides of 'Supercommittee' for Failure](#)". The Gallup Organization.

<sup>lii</sup> Cooper, Matthew. (November 9, 2011). "Public Split on Parties' Super Committee Ideas." Also see Christopher Wlezien, "The Public as Thermostat: Dynamics of Preferences for Spending," *American Journal of Political Science* 39 (4): 981-1000.

<sup>liii</sup> See [crfb@newamerica.net](mailto:crfb@newamerica.net) for multiple publications and news releases from the Committee for a Responsible Federal Budget.

<sup>liv</sup> Poole graphic accessed 3/21/12 from <http://enikrising.blogspot.com/2011/08/supercommittees-ideal-points.html>. Also see Sarah Bender's analysis of the super committee ideology at the same blog.

<sup>lv</sup> Quoted in Baker, "Education of a President," *New York Times Magazine*, October 17, 2010.

<sup>lvi</sup> Allen Schick, *Congress and Money: Budgeting, Spending and Taxing* (Washington, D.C.: Urban Institute Press, 1980) 51-81.

<sup>lvii</sup> Irene Rubin, "The Great Unraveling: Federal Budgeting, 1998-2006," *Public Administration Review* 67 (2007), 608.

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<sup>lviii</sup> Louis Fisher, "Federal Budget Doldrums: The Vacuum in Presidential Leadership," *Public Administration Review* 50 (1990), 693-700.

<sup>lix</sup> Lee Hamilton, The Center for Congressional Studies at Indiana University, October 28, 2011.

<sup>lx</sup> See James A. Thurber, "What's Wrong with Congress and What Should Be Done About It?" In Iwan Morgan and Philip Davies, Eds. *Can Government Be Repaired? : Lessons from America* (London: University of London/Institute for the Study of the Americas Press, forthcoming 2012)

<sup>lxi</sup> Another dysfunctional aspect of budgeting and appropriating is "backdoor" spending or spending not subject to the yearly appropriations process. It is the usual way money is "appropriated" for very significant expenditures, such as Social Security payments, Veterans benefits, Medicare and Medicaid (well over 50 percent of the federal budget). The authorizing committees have evolved backdoor funding provisions, such as these entitlement programs that clearly bypass the "front door" of the two-step authorization-appropriations sequence and decimate the power of the Members of Congress who are charged with appropriations to control spending.

<sup>lxii</sup> Roy Meyers, "Late Appropriations and Government Shutdowns: Frequencies, Causes, Consequences, and Remedies," *Public Budgeting & Finance* 17, No. 3 (1997) 25-38.

<sup>lxiii</sup> See Irene Rubin, "The Great Unraveling: The Vacuum in Presidential Leadership," *Public Administration Review* 67 (2007) 610-613.

<sup>lxiv</sup> See Philip G. Joyce, *The Congressional Budget Office: Honest Numbers, Power and Policymaking* (Washington, DC: Georgetown University Press, 2011).

<sup>lxv</sup> Statement by Louis Fisher, The Constitution Project, Before the Senate Committee on the Budget, "Improving the Congressional Budget Process", October 12, 2011, 9.

<sup>lxvi</sup> *Ibid.* 9.

<sup>lxvii</sup> As quoted in Fisher, *Ibid.* 9, from Penner statement in "Budget Process Reform," hearing before the House Committee on the Budget, 101st Cong., 2d Sess. 20-21 (1990).

<sup>lxviii</sup> Penner statement in "Budget Process Reform," hearing before the House Committee on the Budget, 101st Cong., 2d Sess. 20-21 (1990).

<sup>lxix</sup> Raju, Manu; Allen, Jonathan (August 2, 2011). "[Debt ceiling debate has lawmakers tired of last-minute jam](#)". *Politico*.

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<sup>lxx</sup> John Hudson, *The Atlantic Wire*, November 16, 2011.

<sup>lxxi</sup> Dorning, Mike (November 22, 2011). "[Both Parties Set to Use Failure of Debt Deal for 2012 Campaign](#)". *Bloomberg*.

<sup>lxxii</sup> Obama, Barack. "[President Obama Makes a Statement about the Supercommittee](#)". Retrieved December 14, 2011.

<sup>lxxiii</sup> Estimate from The Committee for Responsible Federal Budget April 2012. The Congressional Budget Office estimates a \$6.8 trillion deficit reduction over the next years would increase unemployment by 1.1 percent in 2013. See Ezra Klein "That Deficit? Don't Sweat it." *Washington Post*, April 7, 2012, page A2. Also see Jason M. Thomas and David M. Marchik, "there are Worse Fates than Walking off the Fiscal Cliff," *Economic Outlook*, (Washington, D.C.: The Carlyle Group, May 31, 2012) 1-6 .

The dynamics and dysfunction of the congressional budget process from inception to deadlock. 319. Tax policymaking and fiscal responsibility is congress capable of doing its job? 347.Â Dodd has served as a congressional fellow, Hoover national fellow, and Woodrow Wilson Center fellow; president of the Southern and Southwestern Political Science Associations; and chair of the APSA's Legislative Studies Section. Bruce I. Oppenheimer is professor of political science at Vanderbilt University and director of the Center for the Study of Democratic Institutions. He has been a Brookings fellow in Governmental Studies (1970-1971) and an APSA congressional fellow (1974-1975).