Proposal for Improving the Congressional Budget Process

July 2015

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BIPARTISAN POLICY CENTER

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ACKNOWLEDGMENTS

This report would not have been possible without the insights and hard work of BPC Senior Vice President G. William Hoagland. Bill's knowledge and experience with the budget process are legendary. We are both deeply grateful for Bill's loyalty, wisdom, and friendship over many years, as well as his major contributions to this report." — Alice M. Rivlin and Pete Domenici

This paper was also produced with oversight from the Bipartisan Policy Center's Economic Policy Project, Democracy Project, and the Bipartisan Policy Center Advocacy Network. The authors would like to thank Barry Anderson, Len Burman, Stuart Butler, Richard Cogan, Jim Dyer, Alan Frumin, Scott Gudes, Jim Hearn, Phil Joyce, Brett Loper, Donald Marron, Joe Minarik, Jim Morhard, Rudolph Penner, William Pitt, Paul Posner, Robert Reischauer, Peter Robin, and John Sullivan for their comments and suggestions. The authors also wish to acknowledge those congressional staff who also provided early input into issues surrounding the congressional budget process. Ultimately, however, the recommendations herein are those of the authors, and those who provided input into the development of this paper may not support many individual recommendations herein.

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Executive Summary

The Congressional Budget Act of 1974 was a major reform designed to enhance legislative power by giving Congress an orderly process for deciding on the government's spending priorities and how to pay for them. The Budget Act established the House and Senate Budget Committees, the Congressional Budget Office, and a demanding set of procedures for deciding on spending, revenues, and deficits.

After more than 40 years, the process has broken down and urgently needs repair. Indeed, the process specified in the Act—which calls for agreement on a budget resolution early in each congressional session, followed by passage of individual appropriations bills to be signed by the president before the fiscal year begins—has rarely been followed in recent years. In the face of increasing partisan polarization and frequent gridlock, Congress and the executive branch have lurched from one budget crisis to another and kept the government running by means of continuing resolutions and massive omnibus appropriations bills. They have sought to force themselves to make decisions by resorting to special, sometimes bizarre devices, including the super committee, the fiscal cliff, and sequestration.

The current Congress should be commended for having recently adopted a conference agreement for the upcoming 2016 budget year—the first time since April 2009. However, in recent years—and this Congress is no exception—both the White House and congressional budget blueprints have been increasingly used as a political-messaging device. In a political town, there is nothing wrong with messaging tools, but authors of the Budget Act envisioned that a congressional budget would be more than a party-platform statement. They believed the process would heighten debate of the fiscal challenges confronting the nation and set in motion real negotiations, trade-offs and fundamental legislative reforms toward the goal of fiscal sustainability.

Leaders in both parties also call for a return to "regular order," but the parameters of the federal budget have changed so dramatically since 1974 that the old "regular order" is no longer appropriate. Mandatory spending for the major entitlement programs, such as Medicare and Social Security, has grown rapidly and is now far larger than annual appropriations. Spending through the tax code has escalated. The national debt has soared in relation to the size of the economy and is projected to rise further in the future. It is time to rethink the objectives of the budget process and redesign "regular order" to deal with the budget situation Congress faces now and in the future.

The two of us have held leadership roles in the federal budget process over four decades. We have seen the strengths and weaknesses of the process from multiple angles and thought hard about how to improve it. We belong to different political parties, but we share a commitment to orderly budget process and fiscal responsibility. We are saddened by the demise of the process from its original goals. Out of our shared experience, we offer a set of proposals that we hope will help Congress shape a new budget process—one that will advance its original goals and assist elected officials in dealing with inherently tough choices on spending, taxing, and borrowing.

We are under no illusion that improving the federal budget process will transform the political and legislative atmosphere or erase current tensions. Reforming the budget process will not by itself eliminate partisan polarization, establish collegiality, or restore civil discourse. Difficult political decisions, such as controlling entitlement spending and balancing desired spending with adequate revenues, require more than new budget tools. They require the political will to apply current available and new tools to achieve agreed-on fiscal goals. Nevertheless, we believe improving the budget process can help.

Three themes dominate our proposals:

1) The budget process should include all federal spending and revenues. It should not leave entitlement spending or tax expenditures on automatic pilot, as they are now, but should allow Congress and the president to agree on all spending and revenues and review their decisions on a regular schedule.

2) The process should be transparent and completed on time. The current complexity should be reduced and incentives put in place to finish the budget before the start of the fiscal year.

3) The budget should have buy-in from the president and the leadership of both houses of Congress. The budget process is the forum in which differences between the branches on fiscal priorities must be addressed, debated, and resolved. It requires the active participation of executive and legislative leadership.

On the following pages we offer ten specific recommendations that reflect these themes. Some will find our proposals too drastic to be feasible and others will find them too incremental. We have tried to pick a middle ground that builds on the strengths of the existing budget process and that proposes the changes we deem most needed to deal with current challenges.

10 Recommendations for Reforming the Federal Budget Process:

Recommendation 1: The budget resolution should set caps on discretionary spending, as it does now. Program expenditures currently defined as outside the discretionary caps (60 percent of spending) should be subject to intense review and, as appropriate, placed under the discretionary spending caps. Adjustments for emergencies, disasters, and national security risks should continue, but Congress and the administration should review federal disaster-mitigation programs to reduce federal and private-sector exposure to disaster risks.

Recommendation 2: Enact explicit long-term budgets for Medicare, Medicaid, and Social Security as well as other mandatory programs that have not been put under the discretionary caps. For each of these programs set limits on automatic spending growth. Enforce spending limits by reestablishing and simplifying pay-as-you-go rules for these mandatory spending programs. Establish similar treatment for expiring mandatory and tax revenue provisions in statutory baseline projections. In other words, expansions or extensions of mandatory spending or tax revenue provisions would be required to be paid for with either reductions in other mandatory spending or increases in revenues.

Recommendation 3: Establish a periodic review of federal tax expenditures either (a) by creating a baseline projection of tax expenditures and an automatic review of all tax expenditures when baseline projections are exceeded, or (b) by requiring all tax expenditures to sunset and be subject to an independent review on an eight-year rotating cycle.

Recommendation 4: In combination with the first three recommendations, establish in law a specified debt-held-by-the-public goal to be achieved by a fixed date to guide policy decisions.

Recommendation 5: Enact legislation to establish a biennial budgeting cycle that would ensure that Congress adopts a budget and all appropriation bills in the first session (odd-numbered years) and frees up time in the second session for authorization. Supplemental and emergency appropriations could occur as needed in either session. General oversight by authorizing committees would not be limited to any period.

Recommendation 6: Upon the adoption of a biennial budget resolution that reflects the estimated debt that is subject to limit at the end of the second biennial year, Congress will then be deemed to have enacted and sent to the president for approval (or veto) an increase in the statutory debt limit that is consistent with the assumptions in the adopted biennial budget.

Recommendation 7: Failure to adopt a conference agreement on a biennial budget resolution in the first session of Congress by April 15 would require the cancelation of all planned congressional recesses until a conference agreement is adopted.

Recommendation 8: Failure to adopt a biennial appropriation bill (one or all) before the beginning of the first session of the biennial budget cycle would result in automatic funding of government programs and agencies at the previous year's level.

Recommendation 9: (a) Modify membership of budget committees to include chairs and ranking members of the major fiscal, tax, and economic committees (or their designees); (b) adjust term limits on the House Budget Committee; (c) collapse the Joint Committee on Taxation into the Tax Analysis Division of the Congressional Budget Office; (d) establish clear procedures for appointing a Congressional Budget Office director; (e) eliminate "vote-a-rama"; (f) place nomination of the director and deputy director of the Office of Management and Budget solely within the jurisdiction of the Senate Budget Committee rather than today's joint jurisdiction with Homeland Security and Governmental Affairs; (g) make out-of-order the consideration of both deficit-neutral and spending-neutral reserve funds in drafting budget resolutions; and (h) eliminate restriction on consideration of Social Security changes when considering a budget resolution or reconciliation legislation.

Recommendation 10: Establish a presidential/congressional commission on budget concepts, which will report to the Office of Management and Budget and to the Congress on recommended accounting and budget-concepts changes, including (but not limited to):

- Federal credit program accounting adjustments (e.g., fair-value, expected-returns).
- Review current distinctions between on- and off-budget entities (e.g., Postal Service and Social Security).
- Macroeconomic scoring of tax and investment policies (e.g., "dynamic scoring").
- Reexamine and readjust functional budget categories.
- Equitable treatment of expiring mandatory spending and tax provisions in baseline projections.
- Treatment of offsetting receipts as revenues.
- Regulatory cost analysis, executive and legislative branch procedures.
- Capital budgeting.
- Preventive health care investments.

Proposal for Improving the Congressional Budget

"Through the thicket of budget provisions, piled helter skelter atop one another, from the Budget Act of 1974 to Gramm-Rudman to the Omnibus Budget Reconciliation Act of 1990 (OBRA), there comes the recognizable outline of old disputes that have pitted institutions in the budgetary process against each other as far back as anyone can remember."

—Aaron Wildavsky, Public Administration, November/December 1992

Perspectives on the 1974 Act

While the U.S. Constitution gives the power of the purse to the legislature, Congress did not have an orderly process for exercising that power before 1974. It acted on spending and taxing bills separately, but never on the budget as a whole. It never voted to approve total spending or the size of the deficit or surplus. This fragmented congressional process effectively ceded power to the executive branch, which had evolved a centralized process for preparing and defending the president's budget proposal and which controlled most budget information and analysis. The Act laid out a sequence of decisions for agreeing on a budget framework and then filling in the details. For the first time, Congress was called on to vote on a budget resolution specifying total spending by major categories, total revenues, and the resulting deficit or surplus. The Act also created budget committees to guide the process and keep it on track and a Congressional Budget Office (CBO) to give Congress its own source of budget information and analysis. The Act also attempted to ensure that budget actions would be completed before the fiscal year by shifting the start of the fiscal year from July 1 to October 1.

As one of his last actions before returning to California, President

Richard Nixon signed the legislation into law on July 12, 1974. Scholars will debate its legacy: had the president not been weakened by Watergate, would he have signed the legislation knowing that it was designed to arrest the power of the executive branch and return Congress to co-equal status in setting federal fiscal policy?

Senator Sam Ervin, who chaired the Committee on Government Operations, which played the key role in bringing the Act to fruition, wrote in December of that year: "I have no doubt the Congressional Budget and Impoundment Control Act of 1974 will stand as a monument to the 93rd Congress and its devotion to our constitutional system of government."[1] Twenty Congresses later, many members of Congress, the public, and policy analysts would seriously question whether the Act lived up to the chairman's high expectations.

The most obvious objective of the Act was to restore congressional authority over the budget—a goal shared across the political spectrum. In this respect, the Act succeeded. There is no longer doubt that Congress controls fiscal decisions (subject to negotiation with the executive and presidential veto, of course) and has substantial capacity for fiscal analysis. CBO and the budget committee staffs have given Congress its own budgetary expertise and reduced congressional dependence on the executive branch for budget information and projections. With respect to finishing budget actions in a timely manner, however, the Act has failed. Although the Act allowed three additional months for budget deliberations, the complexity of the process and the fierce contentiousness of budget decisions continue to defeat efforts to make a budget before the beginning of the fiscal year.

With respect to fiscal goals, the record is mixed. The original legislation was neutral with respect to the size of spending, deficits, and debt. It was designed to give Congress the ability to vote explicitly on these magnitudes, not to predetermine fiscal policy. But mounting deficits in the 1980s spurred bipartisan efforts to bring deficits under control. The Gramm-Rudman-Hollings Act of 1986, which introduced sequestration, was a largely unsuccessful effort to rein in deficits. But the Budget Enforcement Act of 1990 (BEA), which introduced caps on discretionary spending and pay-as-you-go rules to mandate offsetting the deficit impact of mandatory spending increases and tax cuts, was more successful. President Bill Clinton and both Democratic and Republican congresses (aided by a strong economy) used BEA tools to bring the budget into substantial surplus by the end of the 1990s.

More recently, Congress has used spending caps aggressively to reduce discretionary spending. Those programs that require annual appropriations—including national security—as a share of the economy (GDP) have declined over the last 40 years, from 9.3 percent in 1974 to less than 7 percent today, and are projected to fall farther. Domestic discretionary spending, which constitutes much of what Americans think of when they think of government programs—research, education, training, science, transportation, border security, etc.—is on a path to being at its lowest level as a share of GDP in decades. One can question whether these reductions in domestic discretionary spending are wise or sustainable, but there is no question the tools of the Budget Act have enabled Congress to cut this form of spending.

By contrast, those programs often referred to as "mandatory" have nearly doubled—from 7.4 percent in 1974 to 13.5 percent today—and, if current policies are not altered, are projected to expand to nearly 21 percent of GDP by 2039. Although Chairman Ervin expressed the hope that the Act would provide for the control of "backdoor spending" (an unfortunate term; today such spending is referred to as "mandatory spending"), it has never been actively applied to mandatory spending. Such spending does not require annual appropriations—spending continues until Congress acts to change the statute that authorizes it. Mandatory spending is the most difficult for elected officials to address because of the direct benefits provided to their constituents in the form of Social Security, Medicare, Medicaid, unemployment insurance, veterans' support, food assistance, and other direct transfers.

Since most mandatory spending reflects benefits for older people, such spending has increased as the population aged and is on track to rise faster as the large baby-boom generation retires and becomes eligible for benefits. Rapid increases in per-capita health spending reinforce the upward trajectory of entitlement spending. Although the increase in per-capita cost of federal health programs has slowed recently, this slowing may not be sustainable, and, in any case, the number of aging "capitas" will continue to increase.

Revenues are about the same percentage of GDP that they were when the Budget Act was passed—about 18 percent in 1974 (a recession year) and about 17 percent in 2014, although there have been some variations in between. Revenues are reduced by the large number of exemptions, exclusions, and special provisions in the tax code, many of which are essentially spending programs run through the tax code. These tax expenditures, like entitlement spending, are essentially on autopilot. They are not reviewed as part of the budget process.

The most dramatic change in the budget situation in recent years is the rise in federal debt in relation to the size of the economy. Under the impact of the Great Recession and the fiscal measures taken to help the economy recover, debt held by the public has doubled as a percent of GDP. Public debt, which was just 23 percent of the annual U.S. economy in 1974 and was 35 percent as recently as 2007, has risen to more than 74 percent in 2014, and it is projected to rise to more than 106 percent in just 25 years (2039) ,[2] reaching levels not seen since the end of World War II. The increase in debt highlights the importance of bringing mandatory spending and tax expenditures into the budget process so that Congress can consider all the options available to put the budget back on a sustainable track and reduce the ratio of debt-to-GDP.

Limitations of Process Reform

Reforming the federal budget process will not by itself reprise the past or address current failings of the legislative process. Reforming the budget process will not by itself eliminate partisan polarization, establish collegiality, or restore civil discourse. But reforms to the budget process should also not make the perfect the enemy of the good. The failure to control entitlement spending or to balance current spending with current revenues lies not with the Act itself, but with the lack of political will to apply available tools to achieve agreed-on fiscal goals.

This lack of political will comes from both parties' inability to work toward bipartisan goals and is reflected in the Act's long history. Over four decades, Congress has failed nine times to do its most basic responsibility: to adopt a budget. Governing requires budgeting, and budgeting is governing. This has occurred three times when Republicans controlled both chambers, and one time when Democrats were in control of Congress. However, five of those nine times have occurred the last five years straight, when Congress was divided with Republicans in control of the House of Representatives and Democrats in control of the Senate. (See Appendix.) The breakdown in the process has also been reflected in the appropriation process. Only two times in the last 40 years have all 13 (now 12) individual appropriation bills been completed on time, the last being in 1994.[i] Further, for the last five years (2010 to 2015), no regular appropriation bill has been enacted before the beginning of the new fiscal year.

Proposals to change the Act by adopting the recommendations of this paper are critical and worthy of full debate. But much as the process needs a good tune-up after 40 years, no such process changes can reinstate the Madisonian concept embedded in the Constitution—compromise—when no will exists to do so.

Chairman Ervin believed that for 40 years before the passage of the Budget Act, Congress had contributed to and acquiesced in the growth of the power of the executive branch. Forty years on under the Budget Act, can it get over its midlife crisis, find compromise, and return to its basic function of governing and budgeting?

[i] In 1996, for fiscal year 1997, 13 regular appropriation bills were enacted before October 1 (the beginning of the fiscal year), but this was accomplished by combining six regular acts to form an omnibus appropriations act and then enacting the other seven bills individually.

Three Key Elements of Reform

An overhaul of the budget process should have at least three elements.

First Element: The process should include all federal spending and revenues. As envisioned in the original Act, the budget should be "comprehensive," tabulating all expenditures and all revenues and receipts. However, in practice, the budget process has focusing primarily on "discretionary" annually appropriated spending. Such a focus leaves out the nearly two-thirds of all spending that is running on autopilot. Congress has the power to review this spending but does not do so on any regularly scheduled timetable. Further, Congress does not regularly review the huge volume of tax expenditures that permeate the tax code and that by any other accounting could easily be considered mandatory spending. It is impossible for Congress to achieve the stated goal of the budget process—setting spending and revenue priorities—under such circumstances.

Second Element: The budget process should be easy to understand and completed on time. The understanding should not be limited only to members of Congress and their staffs, but to the general public also. To be sure, the 1974 Act was a much-needed step forward in creating a more open and transparent system of budgeting and accounting. Unfortunately, the new process, with two new committees, was layered on top of an already complex and dizzying array of authorizing and appropriations committees, with yet more layers of subcommittees beneath them. The result was a process too complicated to execute in a timely fashion even when partisan hostility was lower than now.

Indeed, within a few years of its passage, the requirement that there be a first and second concurrent resolution—with the option of the second resolution establishing reconciliation procedures—was dropped as too time-consuming and confusing. Further, procedural restrictions brought about by innumerable points-of-order have blossomed over the course of the Act's history. Some points-of-order are found in the original legislative language of the Act; others followed amendments to the Act. In addition to the legislated points-of-order, others result from the rule-making authority of each chamber's adoption of, or deeming of, a concurrent budget resolution. In the Senate, some of the points-of-orders can be waived with a simple majority vote; others require a supermajority (60 votes).

Besides creating confusion and time-consuming votes to either waive or affirm a point-of-order, some existing restrictions do not reflect the long-term fiscal challenges facing the country. As an example, a supermajority point-of-order prohibits the consideration of reconciliation legislation that contains any changes to the Social Security program. Finally, while some well-intended points-of-order provide the tools for enforcing agreed-on budget decisions, the effects of others result in a gridlock of the legislative and fiscal decision-making processes. Most dangerously, the public observes these complex proceedings without comprehension and concludes that their government is dysfunctional.

Third Element: Budget decisions should have the active participation of the congressional leadership and the president. Too often, the budget deliberation process has become a simple extension of a political party's platform agenda or an individual's campaign promises, with "gotcha" votes having no substantive impact on the final actual spending or revenue decisions. Removing the "campaign" element of the budget process from the system, and focusing on governing, will require modifying the membership structure of the two budget committees to better incorporate the top leadership of the major spending and taxing committees. Such changes to an individual committee's makeup would require the concurrence of party caucus committee rules. Addressing broadly the congressional committee structure is beyond the scope of this paper. However, simplifying the committee and subcommittee structure could be an integral part of improving both budgeting and governing in the U.S. Congress.

While reform of the congressional budget process is the focus of the recommendations to follow, leadership in the executive budget process is also essential. The president should be an active and direct participant in the congressional budget deliberations, making the administration's views clear through Statements of Administration Positions and in meetings with congressional leadership. Providing presidential leadership while respecting the prerogatives of the Congress and maintaining the balance of powers between the two branches of government takes political skill at both ends of Pennsylvania Avenue.

The congressional budget process begins with the executive submitting a budget to the Congress for consideration. Making the president's budget submission timely and transparent is the first step in executive involvement. While congressional oversight is necessary, the executive is bound to know in more detail the operational nature of individual agencies and programs. Therefore, consolidating and streamlining executive agencies and programs within an agency to increase both their effectiveness and efficiency is a priority that should be respected by the Congress. But executive agencies must also establish clear, accountable, and measureable goals and results for funding requests to fully inform congressional budget decision-makers. Incorporating more directly the impact of executive rule-making decisions and their budgetary impacts into the congressional funding procedures would increase the accuracy and credibility of aggregate spending and revenue estimates.

Filling in the Details

Element #1: All Spending and Revenues

Spending subject to annual appropriations—discretionary caps

Recommendation 1:

The Budget Resolution should set caps on discretionary spending as it does now. Program expenditures currently defined as outside the discretionary caps (60 percent of spending) should be subject to intense review and, as appropriate, placed under the discretionary spending caps. Adjustments for emergencies, disasters, and national security risks should continue, but Congress and the administration should review federal disaster-mitigation programs to reduce federal and private-sector exposure to disaster risks.

Discretionary spending caps were first created in 1987 and have become an integral component in maintaining fiscal discipline in this segment of federal spending. The BEA established in law discretionary spending limits, placing limits on annual on appropriations. For 1991 through 1993, BEA established separate budget authority *and outlay limits* for defense, international, and domestic spending. Subsequent amendments collapsed all discretionary spending into one cap and applied the cap only to budget authority. Spending in excess of the caps results in across-the-board spending reductions (sequestration) to bring spending back in line with the statutory cap.

Today budget-authority spending caps established in 2011 (as amended) apply only to defense and nondefense spending through 2022. Confusingly, in 2013, spending caps were defined to apply to "security" and "non-security" funding.

Further, over the years, adjustments to the spending limits have been provided for emergencies, disaster relief, program-integrity initiatives, wildfire-suppression operations, and overseas contingency operations. In 2014, these adjustments increased spending authority by nearly $100 billion (with $86 billion for overseas contingency operations).

Total discretionary spending, including adjustments outside the statutory caps, represented approximately 33 percent of all federal spending in 2014. Should discretionary spending adhere to the adjusted caps through their expiration in 2021, that spending will increase by less than 1.4 percent annually or, when adjusted for inflation, a negative 0.5 percent. Meanwhile, non-discretionary, non-interest expenditures are expected to increase at an annual rate of 6.1 percent. Current estimates over this same period expect inflation to exceed 2.2 percent annually. These differential growth rates suggest an urgent need to include all spending in the budget process, as originally intended.

Major mandatory program spending limits.

Recommendation 2:

Enact explicit long-term budgets for Medicare, Medicaid, and Social Security as well as other mandatory programs that have not been put under the discretionary caps. For each of these programs, set limits on automatic spending growth. Enforce spending limits by reestablishing and simplifying pay-as-you-go rules for these mandatory spending programs. Establish similar treatment for expiring mandatory and tax revenue provisions in statutory baseline projections.

Over the next decade, the three major direct-spending programs—Medicare, Medicaid, and Social Security—will expend nearly $23 trillion and represent 80 percent of all expected mandatory spending over this period. Expenditures will grow at an annual rate for all three programs (~6.0 percent), exceeding the estimated growth in the overall economy over the period (4.4 percent).

Limits on Discretionary Budget Authority, FY 2014 to 2021 (Billions of Dollars).

Caps	2014	2015	2016	2021	Annual Rate of Increase 2014 - 2021
Defense	$520.5	$521.3	$523.1	$590.1	$1.8%
Nondefense	$491.8	$492.4	$492.4	$555.9	$1.8%
Total	$1,012.2	$1,013.6	$1,016.0	$1,146.0	$1.8%
Adjusted for Inflation 2014 = 100	$1,012.2	$994.7	$976.0	$980.3	-$0.5%

Source: Fiscal Sequestrian Report for FY 2014. Congressional Budget Office, January 2015.

Importantly, an aging population drives these programs' growth. While reversing the aging cycle is not possible, with the programs' growth exceeding the economy's growth, other public expenditures necessary for national security and long-term economic growth could be restricted.

By establishing clear spending targets for these three programs and an annual review to ensure targets are met, Congress can begin to budget more directly for them in the future. Those targets could be the current growth rates or rates agreed to be desirable. However, should targets be exceeded, the first line of control would be to offset the breach by requiring the enforcement of past pay-as-you-go rules. Similarly, should target growth rates be adjusted upward from current estimates, increases would also have to be offset.

Finally, many major mandatory spending programs whose authorizations are set to expire are nevertheless currently assumed to be continuing in the congressional baseline estimates (Section 257, BBA 1985). However, non-trust-fund revenue provisions that expire under current law are assumed to expire in the baseline. This disparate treatment is one of the primary arguments against pay-as-you-go rules, since expiring tax cuts are disadvantaged relative to major mandatory spending programs.

The budget baseline rules should be amended to treat spending and revenue equally and to assume their continuation in the baseline regardless of statutory expiration.

Tax expenditure review.

Recommendation 3:

Establish a periodic review of federal tax expenditures either (a) by creating a baseline projection of tax expenditures and an automatic review of all tax expenditures when baseline projections are exceeded, or (b) by requiring all tax expenditures to sunset and be subject to an independent review on an eight-year rotating cycle.

The Budget Act defines tax expenditures as "those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability."[3] Tax expenditures are not examined or scrutinized on a consistent or regular basis.

Any periodic review of tax expenditures triggered by estimates exceeding a baseline projection would require the administration and congressional experts to provide decision-makers with information on the incidence and efficiency of the tax expenditures compared with alternative direct-spending policies.

On the basis of estimates prepared by the CBO and the Joint Committee on Taxation (JCT), there are more than 200 tax expenditures in the individual and corporate tax system that in 2014 totaled nearly $1.4 trillion. The majority of tax expenditures are more similar to mandatory spending programs than to discretionary spending programs. Modifying, adjusting, or repealing individual tax expenditures would not have a direct dollar-for-dollar impact on revenues due to the interaction of the provision with other components of the tax system. Therefore, a simple cap on tax expenditures is methodologically difficult to construct.

One suggested approach to developing a workable tax expenditure cap would be to first define a tax base (e.g., Haig-Simmons, Fisher[4]) and then to compare this base with actual revenues (separated between corporate and individual) to arrive at an aggregate tax expenditure. The difference would then serve as the basis for determining a "tax expenditure baseline." Increases above the baseline, determined retroactively, would require automatic review of either corporate or individual tax rates to offset the increase, revise the baseline, or target legislative action to offset the breach of the cap.

An alternative approach to reviewing tax expenditures proposed by the Minnesota Department of Revenue in 2011 could be applied

The Accumulation of Public Debt (Exceeds 100% of Economy in 2038).

at the federal level.[5] This approach would require that all tax expenditures have a set expiration date. Barring legislation to the contrary, any tax expenditure that sunset would be offset by an automatic decrease in tax rates to maintain revenue neutrality (e.g., corporate/business rates for business tax expenditures and individual rates for individual tax expenditures). In addition, an independent commission would complete a comprehensive evaluation of all tax expenditures on a rotating eight-year cycle. The rotation of expenditures reviewed would be coordinated with the following recommendation (Recommendation #5) to establish a biennial budget and appropriation process.

Set debt-held-by-public target.

Recommendation 4:

In combination with the first three recommendations, establish in law a specified debt-held-by-the-public goal to be achieved by a fixed date to guide policy decisions.

By establishing clear long-term goals for the level of discretionary spending, major mandatory spending, tax revenues, and tax expenditures, policymakers can establish the level of national debt and debt held by the public to be incurred.

Current projections estimate that the country's gross federal debt will increase steadily over the next decade, reaching more than $26 trillion by 2024, 100 percent of GDP in that year. Economists, however, tend to focus only on that portion of the national debt that is held by the public, excluding intergovernmental debt held in federal trust-funded programs. On that score, debt held by the public is also expected to increase steadily throughout the next decade—to $20.6 trillion, or 77 percent of GDP.

At the end of 2008, federal debt held by the public was 39 percent of GDP, close to the average of the preceding several decades. The Great Recession and measures designed to mitigate it carried the debt well over 70 percent of GDP—ratios not seen since shortly after the end of World War II. Over the next decade, debt is estimated to grow faster than that of the economy. Further, by maintaining current revenue and spending paths, CBO estimates this level of debt to exceed 106 percent of GDP by 2039. As this occurs, investors may question the government's willingness to honor its obligations without receiving a higher rate of return on their investments. To service higher-interest expenses, policymakers would need to increase revenues or reduce spending, or a combination of the two, in order to avoid the spiraling of debt into the future.

Setting a clear goal now that lowers the estimated debt level from its current unsustainable path should be a fundamental goal of any budget-process reform legislation. Past reform proposals have established a goal of debt-to-GDP at 60 percent. The appropriate level can be debated, but at a minimum, fiscal policy should seek to keep the debt level steady over the long-term horizon.

Element #2: Transparency and Timeliness

Enact a biennial budget and appropriation process.

Recommendation 5:

Enact legislation to establish a biennial budgeting cycle that would ensure that Congress adopts a budget and all appropriation bills in the first session (odd-numbered years) and frees up time in the second session for authorization. Supplemental and emergency appropriations could occur as needed in either session. General oversight by authorizing committees would not be limited to any period.

This widely supported bipartisan proposal has been advanced over the years, allowing Congress to prioritize its work, to devote more time to program oversight and reauthorizations, to establish more certainty in the budget and appropriation process, and to increase the performance of the federal government. Most recently, the Bipartisan Policy Center's Commission on Political Reform advanced this recommendation as a responsible way of managing the nation's finances and improving the efficiency of government-run programs.[6]

Congressman Leon Panetta authored the first biennial reform bill introduced in 1977. Later, as secretary of defense in 2012, he again expressed his support for a biennial budget and appropriation process as a basis for better government planning and execution. The biennial budget has been supported by the Ronald Regan, George H.W. Bush, Bill Clinton, and George W. Bush administrations. The recommendation builds on Congress's recent enactment of the Bipartisan Budget Act of 2013 (P.L. 113-67), which provided a budget framework for two fiscal years. Finally, as of 2011, 19 states now operate on a biennial budget system.

No government default: automatic increase in statutory debt.

Recommendation 6:

Upon the adoption of a biennial budget resolution that reflects the estimated debt that is subject to limit at the end of the second biennial year, Congress will then be deemed to have enacted and sent to the president for approval (or veto) an increase in the statutory debt limit that is consistent with the assumptions in the adopted biennial budget.

The Congressional Budget Act (CBA) requires that the content of a budget resolution include, among other items, for at least five years, a public-debt estimate for each year covered by the resolution.[7] The House of Representatives, from 1979 until 1995, operated under the "Gephardt Rule" to address raising the statutory debt limit. Upon adoption of the budget resolution (conference agreement) during those periods, the House was deemed to have also passed a debt-limit bill consistent with the adopted budget resolution's calculated debt limit. The U.S. Senate, without the benefit of such a rule, therefore, was required to take two votes—one on the conference agreement and one on the debt-limit bill. Frustration by some senators that the House had to take only one vote (the passage of the conference agreement) often led to the House debt-limit bill being amended so as to guarantee a second vote in the House.

In recent years, some members of Congress have leveraged the debt-limit bill, bringing the country to near default. For a third time in a short 12 months in 2013 and 2014, the country was brought back from the brink of default with the president's signature on legislation, most recently on February 15, 2014, with the enactment of the Temporary Debt Limit Extension Act, which included an extension through March 2015.

Failure to adopt a biennial budget would still require action on a separate debt-limit bill as needed.

Recommendation 7:

Failure to adopt a conference agreement on a biennial budget resolution in the first session of Congress by April 15 would require the cancelation of all planned congressional recesses until a conference agreement is adopted.

One of the basic functions of a government is to establish a budget. Members of Congress are elected; they have a contract with the American public to carry out the laws of the country. In the private sector, non-performance of a contract results in non-payment for work not performed. Failure by elected officials to adopt a budget breaks that contract with the American public. The American taxpayer has the right to demand that their elected officials perform the duties to which they are elected and to require them to remain on their jobs until completed.

Consistent with the existing statute that makes it out of order to consider any resolution in the House of Representatives that provides for an adjournment period of more than three calendar days (during the month of July) unless they have completed action on a directed reconciliation bill for the upcoming fiscal year, a similar prohibition for all months could apply to both the Senate and the House for failure to adopt a conference agreement on a biennial budget resolution.

No government shutdowns: automatic continuing resolution.

Recommendation 8:

Failure to adopt a biennial appropriation bill (one or all) before the beginning of the first session of the biennial budget cycle, would result in automatic funding of government programs and agencies at the previous year's level.

As described earlier, only two times in the last 40 years have all 13 (now 12) individual appropriation bills been completed on time, the last being in 1994. During those 40 years, a budget resolution conference agreement was reached in all but nine years. Further, for the last five years (2010 to 2014) no regular appropriation bill has been enacted before the beginning of the new fiscal year. No budget resolution conference agreement was reached in four of those five years. A total of 116 days of government shutdowns has occurred over the life of the Budget Act.

Congress passed the Consolidated and Further Continuing Appropriations Act in December 2014 just hours before expiration of the existing continuing resolution. This bill, also known as the "Cromnibus," was composed of 11 FY 2015 appropriations bills—a total of $1.014 trillion in discretionary budget authority—and a continuing resolution that set up another political showdown around Homeland Security funding in early 2015.

This recommendation would avoid the threat of government shutdowns for failure to adopt biennial appropriation bills by the beginning of the first fiscal year, or the threat of a presidential veto of a biennial appropriation bill at the beginning of the fiscal year. It would establish an automatic funding of all programs at the lower of the previous year's appropriated level or at the annualized level provided in the most recent automatic continuing resolution if the regular bill did not become law. The automatic continuing resolution would be for the full two biennial years.

Element # 3 Leadership

Organizational restructuring and streamlining—budget committees, CBO, JCT, and budget resolution consideration.

Recommendation 9:

(a) Modify membership of budget committees to include chairs and ranking members of the major fiscal, tax, and economic committees (or their designees); (b) adjust term limits on the House Budget Committee; (c) collapse the Joint Committee on Taxation into the Tax Analysis Division of the Congressional Budget Office; (d) establish clear procedures for appointing a Congressional Budget Office director; (e) eliminate "vote-a-rama"; (f) place nomination of the director and deputy director of the Office of Management and Budget solely within the jurisdiction of the Senate Budget Committee rather than today's joint jurisdiction with Homeland Security and Governmental Affairs; (g) make out-of-order the consideration of both deficit-neutral and spending- neutral reserve funds in drafting budget resolutions; and (h) eliminate restriction on consideration of Social Security changes when considering a budget resolution or reconciliation legislation.

A. **Membership.** In 1972, the Joint Study Committee on Budget Control reported its recommendations, which later became the CBA of 1974. Of the 32 members of the Joint Study Committee, all but four of them served either on the appropriation or tax-writing committee. Analysts have concluded that owing to the membership of this committee, Congress intentionally created the budget committees such that they would have difficulty exercising control over the long-standing money committees.[8]

The current membership on the budget committees is established by the individual rules of each chamber—but primarily by leadership's decisions. Rules of the House require that five members of the House Ways and Means Committee and five members of the House Appropriations Committee serve on the Budget Committee (currently, comprising three majority and two minority representatives from each committee). In addition, one member of the House Rules Committee and one member appointed as the speaker's designee serve on the committee. The chairman of the Budget Committee is limited to three sessions of Congress (six years).

While the House's rules have strengthened the committee's working relationship with other key fiscal House committees, similar rules in the Senate are lacking.

In the Senate, Senate Rule XXV and party conference rules address committee assignments. The Budget Committee is considered a "B" committee, along with the Rules, Small Business, Veterans Affairs, Aging, and Joint Economic committees. A senator can serve on no more than two "A" committees (such as Appropriations, Armed Services, Finance, Banking, etc.) but only one "B" committee. Further restrictions are placed on membership by party caucus rules. As an example, Democratic members are prohibited from serving on more than one of the "Super A" or "Big Four" committees.[ii]

The Senate should reclassify the Budget Committee as an "A" committee and adjust party caucus rules. Rules then would require membership on the Budget Committee of either the chair or ranking member (or their designee) of the key "A" fiscal committees, with a rotating committee representative in the year of a major authorization (e.g., Agriculture). This would increase the authority of the Budget Committee and provide linkage between any budget policies developed by the Congress and the major committees responsible for implementation of those policies.

B. **Term Limits.** In the House of Representatives, only three committees have term limits: Budget, Intelligence, and Ethics. The restriction set out under House Rules (Clause 5, Rule X) requires that members rotate off the committees once they

[ii] Appropriations, Armed Services, Finance, and Foreign Relations.

have served in four out of six successive sessions of Congress. The result of this rule is that members' loyalty to the committee is limited and the benefit of expertise developed by members on complex budget and accounting procedures is sacrificed.

Term limits exist in the Senate only as established by party caucus rules on the chairmanship.

C. **JCT/CBO.** The CBA specifies that for purposes of revenue legislation, considered or enacted in any session of Congress, the CBO shall exclusively use revenue estimates provided to it by the JCT. Improved use of limited staff resources, increased efficiency in revenue estimating, and improved tax-policy analysis could be achieved by streamlining this process. It is recommended that the staff of the JCT and its functions be subsumed directly into the CBO's Tax Analysis Division. The JCT would not be eliminated, but independent tax analysis would be within the CBO's jurisdiction.

D. **CBO Director.** The CBA simply states that, after considering recommendations received from the two Budget Committees, the speaker of the House of Representatives and the president pro tempore of the Senate shall appoint the director of the CBO. Once appointed, the director serves a four-year term that expires on January 3 of the year preceding each presidential election. No restrictions apply to the number of terms a director can serve. Of the seven directors who have served over the CBO's history, three have served two four-year terms and the remainder served one term.[iii]

Over the organization's history, this somewhat informal process has resulted in highly qualified and outstanding public servants serving as directors. This informality, however, has evolved into an unwritten agreement of rotation of the appointment between the House and the Senate leaders. When the two chambers are under different party control this can result in a stalemate and a delay of the needed appointment. Greater clarity and specificity in the appointment process should be established in law.

E. **Eliminate "Vote-a-rama."** In the Senate, in theory, at the end of the statutory time limit on debate of a budget resolution (50 hours) or budget reconciliation bill (20 hours), a vote should occur on the adoption of the budget resolution or the reconciliation bill. However, the time limits set in the CBA, whether intentionally or by oversight, limit only the time in debate and not overall consideration. As a result, beginning in the 1990s, a practice developed known as "vote-a-rama"—whereby senators could continue to offer amendments after the time for debate had expired but not debate the amendment. The result was a long series of amendments and effectively no end to the process, except for exhaustion.

Reform to this process could be achieved by establishing a cloture-like filing deadline for amendments and a time-certain for final vote.

F. **Nomination of OMB Director/Deputy Director.** Not until 2006 did the Senate Budget Committee have any involvement in the nomination or confirmation process of the director and deputy director of the Office of Management and Budget (OMB). As a legacy of jurisdiction prior to the enactment of the Budget Act, the Senate Governmental Affairs Committee had sole jurisdiction over this appointment. And even today, the Budget Committee and (renamed) Homeland Security and Governmental Affairs Committee jointly oversee consideration of those nominations.

In order to streamline the nomination process and to reflect a clearer line of oversight to the Budget Committee, the law establishing the joint jurisdiction should be amended and that responsibility be placed solely within the Senate Budget Committee for the consideration of these nominations.

[iii] Those serving two terms: Alice Rivlin, Robert Reischauer, and Douglas Elmendorf. Those serving one term: Rudolph Penner, June O'Neill, Dan Crippen, and Douglas Holtz-Eakin.

G. **Eliminate Deficit-Neutral/Spending-Neutral Reserve Funds.** During the consideration of the 2016 budget resolution, more than 183 deficit-neutral or spending-neutral reserve funds were adopted in the Senate-passed resolution. Reserve funds first were adopted on a very limited scale beginning in 1987 when two reserve funds were created. They have grown over the years but never to the scale reached in the 2016 budget debate. Reserve funds are effectively "Sense of the Congress" resolutions that allow for the chairman of the Budget Committee to adjust spending or revenue allocations should Congress adopt measures consistent with the stated policies of the adopted reserve fund. As such, they allow members of Congress to be for a politically popular program or activity without addressing how to fund the activity. Budgets should force decision-makers to address trade-offs and highlight their priorities, and not circumvent the hard, necessary, and real decisions of budgeting.

H. **Social Security Restrictions.** Under current law and rules established through previous budget resolutions, it is not in order to consider any changes to the Social Security program in a budget resolution, amendments to the resolution, conference reports on the resolution, or a reconciliation bill (Title II of Social Security). This restriction in current law (CBA Section 301(i) and Section 310(g)) and other unnecessary restrictions on the budget process should be eliminated.

Recommendation 10:

Establish a presidential/congressional commission on budget concepts, which will report to the Office of Management and Budget and to the Congress on recommended accounting and budget-concepts changes, including (but not limited to):

- Federal credit program accounting adjustments (e.g., fair-value, expected-returns).
- Review current distinctions between on- and off-budget entities (e.g., Postal Service and Social Security).
- Macroeconomic scoring of tax and investment policies (e.g., "dynamic scoring").
- Reexamine and readjust functional budget categories.
- Equitable treatment of expiring mandatory spending and tax provisions in baseline projections.
- Treatment of offsetting receipts as revenues.
- Regulatory cost analysis, executive and legislative branch procedures.
- Capital budgeting.
- Preventive health care investments.

Nearly half a century ago, in 1967, a commission of highly regarded experts presented the president of the United States with a report outlining fundamental reforms to the federal budget.[9] Those reforms focused on the presentation of the federal budget, its concepts, and its practices to increase its "usefulness for decision-making, public policy determination, and financial planning." The commission's central recommendation was the creation of a unified budget statement, eliminating in large part the three other budget concepts at that time: administrative budget, consolidated cash budget, and a national income accounts budget. The president's budget submitted to Congress in 1969 reflected many of the commission's recommendations, which have continued unchanged to this day.

Forty-seven years later, we recommend that a similar high-level presidential and congressional commission be established to revisit concepts and procedures used today in deliberations surrounding the current federal budget process. This would not only focus on the congressional process, as we have done here, but also on the roles of the executive branch, independent regulatory agencies, the judicial branch, and—increasingly important in the 21st century but also controversial—the Federal Reserve on impacting fiscal policy.

One focus of this commission should be an appropriate accounting for federal credit programs and activities creating unfunded long-term liabilities for the federal government.

Federal Credit Accounting. As an example, CBO recently estimated that nearly $3.8 trillion in new obligations or credit commitments would be made over the next decade. Federal credit programs provide support for housing, commerce, agriculture, education, and more. Current federal accounting of these loan programs collapses the fiscal effects of these loan programs into one number (the net present value of the loan). The Federal Credit Reform Act of 1990 (FICRA) measures the lifetime cost of a loan (called its subsidy cost) as the discounted future cash flows of the loan to a present value at the date the loan is disbursed. Under FICRA rules, the discounting factor is the rate on U.S. Treasury securities with similar terms to maturity.

An alternative accounting mechanism called "fair-value," similarly collapses the fiscal effects of a loan into one number, but fair-value uses a discounting rate based on market values, which is believed to more fully account for the cost of the risk the government takes in making the loan.

The difference in accounting for similar loans is different not only in magnitude, but also in sign. It is estimated under FICRA procedures that the $3.8 trillion in new obligations or commitments over the next decade will have a negative subsidy cost of more than $200 billion—the government makes money on the loans. However, accounting for market risks under fair-value, there would be a cost to the government of more than $120 billion.

In addition to the differences in costs resulting from different discounting assumptions, neither FICRA nor fair-value accounting that results in "one number" can fully capture the budget effect over the budget window, over the loan's life, or as a subsidy to the borrowers[iv] An alternative accounting structure for federal credit programs should be developed to better capture the risks to the government in making loans while increasing the transparency to decision-makers to also capture the impact of the loan over the budget window.

The growth of federal credit programs over recent years and increased regulatory activities outside the normal congressional budget process necessitate a more fundamental review of these programs and of their accounting than what might be achieved by the reforms suggested herein.

On-Budget/Off-Budget Accounting. In 1967, the President's Commission on Budget Concepts called for the budget to include the financial transactions of all the federal government's programs and agencies. Despite the commission's strong recommendation, at least one federal program or agency has been presented as off-budget as a requirement of law. Although there is a legal distinction between on-budget and off-budget activities, for all practical purposes there is no difference between the two. The federal activities of these off-budget programs are funded by the government and administered by the government the same as if they were on-budget.

Largely due to the lobbying efforts of Senator Ernest Hollings, the 1985 Gramm-Rudman-Hollings law made the Social Security programs off-budget (except for purposes of calculating the deficit and sequestration). Previous activities that had been declared off-budget by law before 1985 have been reclassified as on-budget.

But in 1990, the Postal Service was declared off-budget by law. The Postal Service has an unfunded liability totaling nearly $100 billion today, primarily in unfunded retiree health care benefits. Postal Service retirees are federal retirees, and their benefits are paid out of the U.S. Treasury. This fact alone suggests that the Postal Service should not be considered off-budget. Social Security programs and the Postal Service programs include accounts further divided into mandatory and discretionary funding, adding to confusion and unnecessary record-keeping.

[iv] For a discussion of an alternative credit-scoring procedure, see: "A Better Way to Budget for Federal Lending Programs," Donald Marron, September 2014.

Other Accounting Issues. Questions also should be asked and answered as to whether a reconsideration of a capital budget, alternative financing mechanisms that might tap the strengths of the private-sector investment community, or an investment budget would better provide decision-makers with the tools to address the challenges of an aging physical infrastructure. How can future liabilities be better reflected and addressed in the budget decision-making process? Further, is a cash-based accounting system the best approach for decision-making when the human capital investment may not provide returns to the public until beyond the traditional budget window?

Conclusion

Since the Congressional Budget Act was passed more than four decades ago, Congress has failed nine times to do its most basic responsibility: to adopt a budget. We believe that's unacceptable.

Governing requires budgeting, and budgeting is governing. Because of our shared commitment to an orderly budget process and fiscal responsibility, we have offered ten recommendations for reforming this process.

These recommendations build on three main themes: (1) the budget process should include all federal spending and revenues; (2) the process should be transparent and completed on time; and (3) the budget should have buy-in from the president and the leadership of both houses of Congress. We know that reforming the process will not eliminate partisan polarization, establish collegiality, or restore civil discourse, but it's a good start. Difficult political decisions demand more than new budget tools. They require the political will to apply available tools to achieve agreed-on fiscal goals. We believe the proposals in this report are critical and worthy of debate.

Appendix

Historical Record of the Congressional Budget Process, 1976 - 2013

Fiscal Year	Administration	Budget Resolution Conference Agreement	Government Shutdown (number of days)	House	Senate	Government
1976	Ford	Yes	-	D	D	Split
1977	Carter	Yes	10	D	D	D
1978	Carter	Yes	28			
1979	Carter	Yes	18	D	D	D
1980	Carter	Yes	11			
1981	Reagan	Yes	-	D	R	Split
1982	Reagan	Yes	2			
1983	Reagan	Yes	4	D	R	Split
1984	Reagan	Yes	3			
1985	Reagan	Yes	3	D	R	Split
1986	Reagan	Yes	-			
1987	Reagan	Yes	1	D	D	Split
1988	Reagan	Yes	1			
1989	Bush - 41	Yes	-	D	D	Split
1990	Bush - 41	Yes	-			
1991	Bush - 41	Yes	3	D	D	Split
1992	Bush - 41	Yes	-			

Continued

Fiscal Year	Administration	Budget Resolution Conference Agreement	Government Shutdown (number of days)	House	Senate	Government
1993	Clinton	Yes	-	D	D	D
1994	Clinton	Yes	-			
1995	Clinton	Yes	-	R	R	Split
1996	Clinton	Yes	5			
1997	Clinton	Yes	21	R	R	Split
1998	Clinton	Yes	-			
1999	Clinton	No	-	R	R	Split
2000	Clinton	Yes	-			
2001	Bush - 43	Yes	-	R	=	R
2002	Bush - 43	Yes	-			
2003	Bush - 43	No	-	R	R	R
2004	Bush - 43	Yes	-			
2005	Bush - 43	No	-	R	R	R
2006	Bush - 43	Yes	-			
2007	Bush - 43	No	-	D	D	Split
2008	Bush - 43	Yes	-			
2009	Obama	Yes	-	D	D	D
2010	Obama	Yes	-			
2011	Obama	No	-	R	D	Split
2012	Obama	No	-			
2013	Obama	No	-	R	D	Split
2014	Obama	No	16			
2015	Obama	No	-	R	D	Split

End Notes

[1] Preface to the Congressional Budget and Impoundment Control Act of 1974, Legislative History, Committee on Government Operations, U.S. Senate, December 1974.

[2] The 2014 Long-Term Budget Outlook, Congressional Budget Office, July 2014.

[3] Congressional Budget Act of 1974, Sec. 3 [2 U.S.C. 622], (3).

[4] Available at: En.wikipedia.org/wiki/Haig%E2%80%93Simons.

[5] Tax Expenditure Review Report: Bringing Tax Expenditures into the Budget Process, Minnesota Department of Revenues, February 2011.

[6] Governing in a Polarized America: A Bipartisan Blueprint to Strengthen our Democracy, Bipartisan Policy Center, 2014.

[7] Congressional Budget Act of 1974, Title II, Section 301(5).

[8] Philip G. Joyce, Strengthening the Budget Committees: Institutional Reforms to Promote Fiscally Responsible Budgeting in Congress, paper prepared for the Federal Budget Reform Initiative, Pew Charitable Trusts, January 2011.

[9] Report of the President’s Commission on Budget Concepts, Washington, D.C., October 1967.

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