

Back to the Future: Budgeting in a Time of Change
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G. William Hoagland¹

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“The White Rabbit put on his spectacles. ‘Where shall I begin, please your Majesty?’ he asked.

‘Begin at the beginning’, the King said gravely, ‘and go till you come to the end: then stop.’ ”

Where shall I begin -- going back to the future? Another English writer, not Lewis Carroll but Winston Churchill once observed, “The further backward you look, the further forward you can see.”

I don’t know if I should take it as a compliment or not, but I guess Sandy asked me to speak to you because I am getting to that age where I can look back a little further than most of you in the room here today. So since you asked for it – you are going to have to put up with the ramblings and reminiscing of an aging baby boomer this morning. More importantly, if as someone once said – demography is the future that has already happened – then you are looking at your future, along with 77 million others just like me.

So looking back over the years I have noticed there is a tendency for some recently retired congressional staffers of some duration, to unleash their pent up frustration and disgruntlement with vitriolic fanfare for the institution they have recently departed. I would rather not take that approach on this my maiden voyage after many years of congressional service. Rather I propose to look back and contemplate the future based in part on my experiences with the budget process over these years.

I began my government service at a time of high drama in this town -- in 1973. At a time the then second term president, President Nixon was to later write in his memoirs and I quote: “By 1973 I had concluded that Congress had become cumbersome, undisciplined, isolationist, fiscally irresponsible, overly vulnerable to pressures from organized minorities, and too dominated by the media.”

A time followed by the President impounding of appropriated funds, dismantling the Office of Economic Opportunity while ignoring the laws that had created it. A time of interventionist foreign policy and minimum consultation with congressional leaders; a time of amplified presidential war making authorities; and a time characterized by the Executive denying Congress information by an extensive use of unreviewable executive privilege power.

Sound familiar and mind you I drafted these remarks before last week’s comments by the current Senate Majority Leader comparing the current President to Richard Nixon and before missing e-mails was news.

¹ Vice President for Public Policy, CIGNA Corporation. Formerly U.S. Senate Staff 1982-2007.

But ironically in 1973 an otherwise insignificant young Republican staffer on the Watergate Special Committee was to bring the “imperial presidency down” by asking a simple, unassuming question of Alexander Butterfield in a staff investigation – “Do you know any basis for the implication by some that conversations in the Oval Office are recorded?”

The rest is history, except for one last personal note.

I recall in those days long before C-SPAN and a time when it was absolutely unheard of to have a TV in your office, going home one evening and watching the Senate Watergate hearings on one of the only 3 national network stations at that time. And I recall an honest, simple question was asked by Senator Baker of a witness at the table in that august Senate Russell Caucus Room – “What would you advise any young person thinking about a career in government?” The response – from John Dean a young counsel to President Nixon – was quick and rapid – “Don’t do it.”

Mind you, I have just begun my career at the Department of Agriculture and as Paul Harvey would say: “the rest of the story in a few minutes”.

The momentous events of 1973 were followed by a Congress more assertive of its equal constitutional authority *visa-a-vi* the executive branch. The War Powers Resolution of 1973 was adopted over President Nixon’s veto, and coincidentally the Watergate Committee’s final report in June 1974 was followed one month later by the enactment of the Congressional Budget and Impoundment Control Act.

Today’s fiscal decision making process has evolved from its birth in 1974. But economic and public finance historians will observe that the central question of how to allocate limited resources in a national budget has confronted this country ever since its inception. In fact looking back, even before my time, a critical factor insuring failure of the Articles of Confederation was the lack of power to raise money by taxation and to regulate commerce along uniform lines.

What followed was the Constitution’s “commerce clause” authorizing the Congress to “regulate commerce ...among the several states.” The directness and simplicity of that clause has lent itself to more than one interpretation resulting in conflicts and varying legal decisions that have characterized an evolving, growing and expanding country over the last two centuries.

Similarly, interpretations of the 1974 congressional budget act, follow-on amendments and parliamentary rulings have become subject to wide interpretation and debate. Even to focus on somewhat narrow time period of the last 33 years to evaluate a major legislative, political process is to unfortunately miss the broader historical context in which that process must operate.

The fundamental question that will always confront any level of government is what resources and what expenditures are needed to provide for the common good of its citizens. A question of trying to balance the amount of resources a government takes from its citizens with what is needed to be spent for the common good, and the “common good” is often subject to interpretation. Those questions were there at the beginning of the Republic and it was there with the passage of the Congressional Budget Act in 1974.

In my Senate career I have heard the legislative and budget process referred to in many different ways, not all complementary of course.

Academic political scientists have come to refer to the process as “disjointed pluralism.” Pluralism in the sense that many different coalitions promoting a wide range of collective interest drive the process of change; disjointed in that there are messy interactions between these various and competing groups and coalitions.

The journalists have referred to it as in Jonathan Rauch’s title book in 1994 – Demosclerosis, the government’s progressive loss of ability to adapt, leading not to an acute fever but more like a slow hardening of the arteries that unless behavior is modified will only get worse. More recent versions of this description might be Ornstein and Mann’s recent book entitled the Broken Branch.

My economist friends simply refer to it as the “tragedy of the commons” where you have limited resources open to all comers. That the tragedy expands as Americans organize into many groups and associations with their lawyers, consultants, and lobbyists to pressure the politicians to either get, protect, or expand their share of the pie – resulting in its problem solving capacity, a common resource shrinking.

I will conclude here this morning that the process is not broken, the branch may have become a little more bent from the weight of a growing, globally interrelated economy, but it is not broke. It has not “unraveled” but has followed an historic evolution consistent with the changing times and even changing norms.

Indeed, I take solace in Churchill’s admonishment: “You can always count on Americans to do the right thing – after they have tried everything else.”

I do agree, however, that changes to the budget process – some enacted and some by parliamentary rule only – have not always enhanced the decision making process nor has it always provided legislators with transparent tools to make fiscally wise decisions. I also agree that changes to the current process should be considered that would benefit the public and the legislative process. However, I do not believe “budget process reform” alone will ever overcome the broader challenges of changing, sometimes inconsistent executive and legislative leadership, along with a pluralistic political system that ebbs and flows with public opinion in an evolving, integrated global economic system. In short, today’s budget process is a continuum in the evolution of our democratic system not just from 1974 but even from those early days in Philadelphia.

On Deficits and Surpluses.

I disagree with those that suggest that balance is or always should be a tenet of the budget process and those revenues should always equal or exceed expenditures at the federal level. While at the same time I strongly support balancing revenues and expenditures, particularly over the business cycle, but this is as much, if not more so these days a political decision, rather than an economic decision -- others have and will disagree. Particularly in times of war or recession, a current year balance need not be a fixed objective, nor would it necessarily be a wise course for the national economy. I further argue that it is wrong to suggest that the framers of the Congressional Budget Act set balance as an outcome to be derived from the process, either in its origin or its intent.

The 1974 Budget Act was neutral on this question. It simply put in place a process, an accounting tool, where for the first time decision makers could debate, construct, implement and enforce their spending and tax decisions in a unified document. The fiscal blueprint the Congress would adopt through this accounting tool would ultimately be a political product, and it would reflect a majority decision on spending and revenues, with a resulting surplus, deficit, or balanced budget.

The process also established a procedure for confronting the legislators when they chose to violate their own blueprint. Violators are defined here as those who would vote to waive the Budget Act's enforcement provisions to consider legislation outside the adopted fiscal blueprint. Violators, in principle, could be observed and recorded by their electorate and held accountable in their next election.

In the late 1970's, the political norm changed. Increasing fiscal deficits ushered in a new Republican Administration under Ronald Reagan that placed deficit reduction as both a political and economic objective to be achieved by restraining spending, followed by reduced taxes. Further, the first major application of the budget reconciliation tool in 1981 allowed for the goals and policy assumptions of the budget blueprint to be considered more directly and expeditiously.

But with deficits continuing to grow throughout the early 1980's (both in nominal terms and as a share of the national economy) bipartisan pressure built to modify the system. In August 1982 the Senate passed a balanced budget amendment by a 69-31 margin, two votes more than the 2/3rds needed for a constitutional amendment. The BBA did not pass the House by the required 2/3rd majority. This action then was followed by the first significant change to the congressional budget process that legislatively altered the Budget Act from a stance of neutrality to one of a specific policy objective – balanced budgets. The Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) put in place a complex set of procedures that set deficit targets into statutory law forcing annually adopted budget blueprints to achieve the specified current year and out year targets. Again, the budget and political landscape changed.

Balance was to be achieved in five years by 1991. But the process could not guarantee the outcome specified. This was a result of many factors, not the least of which was the disconnect between fixed deficit targets established under one set of economic projections that proved to be – as projections always are – out of sync with the economy's actual performance. Further the “sword of Damocles” poised to reduce spending programs across the board (sequester) for failing to achieve the set deficit targets also proved politically unpalatable. This was particularly apparent when it came time to apply the Gramm-Rudman-Hollings sequester procedures in 1987 (two years after the law's enactment) with a \$36 billion ordered sequester -- \$20 billion in national defense spending authority and \$16 billion in non-defense spending in one swell swoop.

Unable to accept these automatic reductions both in the Congress and in the Administration, an ad-hoc budget summit was called in the fall of 1987 following a major downturn in the stock market, and a new Balanced Budget and Emergency Deficit Control *Reaffirmation* Act of 1987 moved the goal post of balance back to 1993.

By 1990, however, facing another politically insurmountable sequester that would have reduced defense spending 11 percent and non-defense spending 16 percent in order to achieve a deficit target of \$100 billion that year, the goal of achieving balance remained but the mechanistic Gramm-Rudman-Hollings procedures was an acknowledged failure. A new approach was taken. Two major concepts of the Gramm-Rudman-Hollings experience survived and were incorporated

into the Budget Enforcement Act of 1990 (BEA). They have remained central to today's congressional budget process and -- "back to the future" -- remain the central issue within today's congressional budget debate.

The two procedures are: (1): spending caps to control annual discretionary appropriations and (2) "pay-as-you-go" procedures to control entitlement spending and revenue measures. The fixing of a specific deficit or surplus target was abandoned in favor of controlling that which was more directly achievable in actual legislative action. Those procedures were extended and strengthened in the Balanced Budget Act of 1997 and along with an exploding economy translated into four consecutive years of a balanced federal budget beginning in 1998, the only time this has occurred in the 20th century.

Some argue that when the BEA's authorization ended in September 2002 and was not renewed that the budget process defaulted back to the 1974 Act. In practice, however, the only major change from not extending the BEA was the loss of the never realistically triggered statutory discretionary or pay-go sequester procedures. The Congress retained discretionary spending caps, enforceable with a supermajority point of order (in the U.S. Senate) in follow on budget resolutions (or adopted by rule or legislation) even for the three years a budget resolution conference agreement was not reached following the expiration of BEA.

It is true that since BEA expired that the House and Senate failed to reach a conference agreement on a fiscal blueprint, but the suggestion that this was a result of not extending the BEA is highly questionable. Only once in the history of the Budget Act has the House or Senate ever failed to adopt a budget resolution in their individual chambers, that one time being the election year of 2002, the year BEA expired. A politically sensitive Democratic controlled Senate did not even consider its budget blueprint reported from its Budget Committee that year under the 1st time chairmanship of Senator Kent Conrad, highlighting the highly charged political consequences of even considering a budget blueprint in that chamber that year.

The failure of the Congress to reach agreement in the other two post-BEA years was a direct result of a fairly evenly divided U.S. Senate unable to reach agreement over the extension of a more stringent pay-go rule to apply in the Senate. The proposed rule change would have made it a requirement that any tax reduction, regardless if assumed and built into the budget resolution's assumption, would still need to be offset by other tax increases or equal entitlement reductions. Conservative GOP members saw this rule change as a threat to the extension of expiring tax provisions adopted in 2001.

The failure to adopt a 2006 conference agreement on a budget resolution focused on the inability of the House of Representatives leadership to find a consensus with their moderate House Republican members on the level of discretionary spending for social-welfare programs, even after reducing slightly the President's FY 2007 defense request to increase domestic spending. This combined with an Administration unwilling to compromise further with the congressional budget and appropriation negotiators resulted in the ultimate delay of appropriations in the election year and a continuing funding resolution carrying over into the 110th Congress.

A new Democratic controlled 110th Congress, bolstered by mid-term election victories and unbound by a President with low approval ratings but still reticent about the level of spending for non-defense domestic programs, moved to resolve the sticking point quickly by finalizing social welfare spending another \$6.4 billion over the President's initial request while having

benefited from the previous Congress's reduction of "regular" defense spending \$4.0 billion below President's request.

The new Democratic controlled Congress will also successfully adopt a conference agreement on the FY 2008 budget in the coming weeks, in part because of its embarrassing failure of the Senate not to have done so in 2002, but more importantly because of its increased level of domestic discretionary spending over the President's request combined with the newly established pay-go procedures earlier this year in the House and included in the Senate's 2008 budget resolution's procedures. Looking to 2008, the majority party at least at this point looks to establish their bona fides as fiscally responsible, by adopting a budget plan. But it is early and whether or not pay-go can be maintained not only in principle but in practice, the future is yet to unfold.

I must note, and maybe sounding defensive in reaction to Sunday's Washington Post column by David Broder on this subject, that the Senate has maintained a pay-go point of order even before the expiration of statutory BEA pay-go procedures and has continued the procedure to this day. The Senate super-majority point of order against entitlement spending or revenue reductions has evolved in various forms over the last 15 years, driven in part by the swing from deficits to surpluses following the successful 1997 Balanced Budget Act and projected surpluses in early 2001 for as far as the eye could see. Only recently in the new 110th Congress has the House of Representatives even created a pay-go point of order in that chamber that can be waived with a simple majority vote.

On Estimates and Prognostications.

One of the least understood and difficult aspects of any budget process, as was apparent in the failure of Gramm-Rudman-Hollings, is the analytical challenge of estimating the future and establishing ex-ante what spending or revenues would have been absent any change in policy. Changes in surplus and deficit estimates moved from a projected surplus in January 2001 for the period 2001-2005 of \$2.3 trillion to most recently a deficit estimate of \$1.4 trillion over the same time period --a swing in the fiscal outlook of \$3.7 trillion.

Based on the non-partisan Congressional Budget Office's most recent analysis, legislated tax reductions contributed less than \$920 billion or 25 percent to the swing from surplus to deficits in this period. Legislated spending increases accounted for \$1.3 trillion or 35 percent in the swing from surplus estimates to deficit estimates. The biggest culprit, however, to the swing from surplus to deficits over this five year period was simply the unknown "economic and technical" changes of \$1.4 trillion or 38 percent. Accepting future estimates beyond 2006, the analysis indicates spending increases will contribute the single largest share of the move from surplus to deficits.

Some individuals in the 4th estate and quite frankly lazy pundits often fall into the budget trap of analyzing broad aggregate budget numbers and leave the reader with the impression that any changes in those numbers from year to year are because of actions taken by the Congress. If it were only true then federal budgeting would be significantly more transparent. Even this current CBO analysis may be questionable given the complexities of separating the impact of economic changes from interactive legislative changes. But it does seem defensible to argue that the domestic economy of today is fundamentally different than it was in 1974. Further with an global economy today, events outside the control of the legislative process, monetary policy in Asia as an example, or even a drought in the wheat growing areas of Australia, can impact the domestic U.S. economy in ways that automatically change federal budget estimates.

One appropriate criticism of the budget process is that it may have established rules that provide a biased starting point for consideration of policy options for entitlement spending programs while also biasing policy proposals against revenue reduction policies. The BEA established rules for extending entitlement spending programs in baseline projections even if the program's authorization had expired, while laws governing tax collections are assumed to expire in the baseline when their authorization expires. An example: the simple extension this year of an expiring \$5 billion entitlement health insurance program for children will be built into the baseline into eternity and only face a budgetary issue if the authorized amount is increased over the annual \$5 billion assumed current level. However, the extension of a \$5 billion synthetic or biomass fuel tax credit program that expires in the tax code this year will need to be offset by cutting other entitlement programs or raising an equivalent amount of tax revenues if it is to be extended even at its current rate.

The overall impact of these procedures, necessary in part to define the starting point in any budget deliberations, has been to shift attention away from the more difficult politically sensitive entitlement spending debate (54 percent of annual total spending) and to focus on the annual discretionary appropriation process. Further with emergency designations for discretionary national security spending removing that portion of the budget from oversight, the remaining 18 percent of all federal spending – non defense discretionary – has become the executive and legislative branch's focus for fiscal restraint.

Controlling non defense discretionary spending has been achieved since the 1990 BEA through the use of annual spending caps, statutory until 2002 and subsequently enforceable by congressional rule making powers or with the adoption of a budget resolution. In general, measured by the rate of growth in spending in the various categories of the budget, spending caps have restrained domestic spending. Most recently spending has actually declined 1.2 percent in this category between 2006 and 2007.

But the restraint has also helped to propagate the criticisms some believe exemplify an unraveling of the process – continuing resolutions, gimmicks, contracting, reprogramming, and earmarks. If balance is now the goal to be achieved today, then restraining spending is one approach, but when successful the stakeholders in the process will push to maximize their share of the dwindling resource – the tragedy of the commons syndrome, and I believe the growth of earmarks – within a constrained total spending limit – were the direct result of having established unrealistic or, more importantly, unfair limits when juxtaposed with the growth of entitlements, defense and tax expenditures. I believe expanding domestic discretionary spending -- as is done in this year's budget resolution assumptions -- will be the key to whether pressure to include earmark spending provisions are reduced.

Accounting for Disasters and Uncertainties.

Some argue that the loss of fiscal discipline has been manifested by the growth of emergency spending supplementals. The application of the emergency designation to avoid having spending count against the discretionary spending caps was an outgrowth of the 1990 Budget Enforcement Act coincident with the beginning of the Desert Storm military operation that year. Even during the recent period some define as unraveling, a procedure has remained in the Congress to allow for the removal of the emergency designation should it be questioned. In

the Senate if 3/5th do not agree that the domestic spending provision meets the criteria of: sudden, urgent, unforeseen, unpredictable, or not permanent, the emergency designation is gone, and the bill then most likely violates its allocation bringing another serious point of order that could kill the bill.

The adoption of stringent domestic spending caps over this period may have exacerbated and increased the use of emergency supplemental spending bills. Nonetheless, excluding spending as defined for Desert Storm, Desert Shield, immediate spending in the aftermath of the September 11 attacks, the devastating 2005 hurricane season, and the current Global War on Terrorism (Iraq/Afghanistan), emergency spending has averaged annually less than \$6.5 billion – 0.2 percent of total spending – since 1991 when the emergency designation became available for budget purposes. The majority of this spending was for agriculture disasters and homeland security spending.

Presidents and Congresses have wrestled with how to plan and budget for emergencies. Government insurance programs for floods, tornadoes, earthquakes, crop insurance, and now terrorism have been crafted to insure against risk and to avoid ad-hoc annual emergency appropriations, but they have only served as minor stop gaps to additional funding when the emergency hits.

The issue today of emergency funding have much more to do with funding for the current Global War on Terrorism and the sums of money devoted to this foreign and national security policy decision. As we all know this is the dominant political and lesser so budget issue, but it should not be the basis for concluding that the entire budget process has unraveled.

A Concluding Thought on the Process.

I conclude that going back to the future; the process has not “unraveled” but has evolved. It has evolved in ways that continue to allow for the enforcement of a budget blueprint should the political will be there to do so. A country divided evenly politically reflected in an evenly divided U.S. Congress, makes it difficult to find consensus on many controversial political and economic issues. (Chart up.)

The last three budget resolutions adopted in the U.S. Senate were adopted by very narrow margins and for all practical purposes by straight party line. Any one Senator changing his or her vote in the two resolutions prior to the 2008 resolution would have produced a tie that would have been broken by the Vice President. A budget process that ultimately must be built on consensus is bound to suffer from the broader divisions and differences that exist outside the halls of Congress, but that process is only emblematic of that conflict not its cause.

I would agree that the budget process has evolved into a system understood only by a few cognoscenti of the budget process – present company excluded. But the federal budget itself is complex, made so by tax and spending legislation designed for a modern complex global economy. Hence just estimating federal spending and revenue under current law is challenging let alone estimating proposed legislative changes to them. Rules and procedures do exist for enforcing unauthorized spending programs (earmarks), sometimes questionable emergency spending (disasters) and violations to discretionary spending caps and pay-go entitlement and tax programs. Those rules, however, are not self executing. If the political will is not there to enforce the stated goals today – balance, inclusiveness, transparency, and predictability -- then no process can be successful. I believe that the answer to whether we have truly returned to the future – or

whether we are trying to escape the future is yet to be determined in this Congress. My bias today is that we are trying to escape the future – when I look at the various options before the Congress today. (Chart up.)

But leaving the U.S. Senate after a quarter century, I can honestly say I still remain an optimist. Elections have consequences. A dynamic ever changing economy buttressed by a free-democratic government will ensure changes to the process that ultimately strengthen the country not weaken it. No different than the changes that have transpired since the country's formation in Philadelphia in 1776.

Now as I promised earlier – from Paul Harvey -- the rest of the story. The witness from the Watergate Hearing answered Senator Baker's question about government service for young people – by saying “don't do it”. I thought I disagreed with the witness then, 33 some years later I now know I was right to disagree. For those of you who continue in public service, for those of you who have completed public service, I congratulate you and now I have gone to the end and I will stop.