

# BUDGET PROCESS REFORM

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## HEARING

BEFORE THE

## COMMITTEE ON RULES HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

ON

## H.R. 853

THE COMPREHENSIVE BUDGET PROCESS REFORM ACT OF 1999

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MAY 12 AND 13, 1999

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(II)

# CONTENTS

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	Page
MAY 12, 1999	
Opening statement of the Hon. David Dreier, Chairman of the Committee on Rules [prepared statement p. 03]	01
Opening statement of the Hon. John Joseph Moakley, Ranking Member of the Committee on Rules [prepared statement p. 06]	04
Opening statement of the Hon. Porter Goss, Vice Chairman of the Committee on Rules [prepared statement p. 09]	08
Statement of:	
Crippen, Dan L., Director, Congressional Budget Office [prepared statement p. 13]	11
Nussle, Hon. Jim, a Representative in Congress from the State of Iowa [prepared statement p. 34]	31
Cardin, Hon. Ben, a Representative in Congress from the State of Maryland [prepared statement p. 43]	40
Minge, Hon. David, a Representative in Congress from the State of Minnesota [prepared statement p. 47]	46
Irving, Dr. Susan J., Associate Director For Federal Budget Issues, General Accounting Office [prepared statement p. 64]	61
Phillips, Martha, The Concord Coalition [prepared statement p. 90]	85
Greenstein, Robert, Center for Budget and Policy Priorities [prepared statement p. 100]	96
Muris, Timothy J., George Mason School of Law [prepared statement p. 115]	112
Additional Information Submitted for the Record	
Submitted Questions and Answers by Mr. Dan L. Crippen	27
Statement of Mr. Bill Frenzel, Co-Chairman, Committee for a Responsible Federal Budget	58
Submitted Questions and Answers by Dr. Susan J. Irving	78
Document on Percentage of Income Tax Paid by Hon. Pete Sessions	153
Submitted Questions and Answers by Timothy J. Muris	159
Submitted Questions and Answers by Martha Phillips	161

MAY 13, 1999

Statement of:	
Smith, Hon. Nick, a Representative in Congress from the State of Michigan	167
Gekas, Hon. George, a Representative in Congress from the State of Pennsylvania [prepared statement p. 170]	168
Barton, Hon. Joe, a Representative in Congress from the State of Texas [prepared statement p. 173]	171
Regula, Hon. Ralph, a Representative in Congress from the State of Ohio [prepared statement p. 178]	175
Castle, Hon. Michael N., a Representative in Congress from the State of Delaware [prepared statement p. 185]	181
Spratt, Hon. John, a Representative in Congress from the State of South Carolina [prepared statement p. 196]	191

(III)

## HEARING ON H.R. 853, THE COMPREHENSIVE BUDGET PROCESS REFORM ACT

Wednesday, May 12, 1999

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RULES,  
*Washington, D.C.*

The committee met, pursuant to call, at 9:30 a.m. in Room H-313, The Capitol, Hon. David Dreier [chairman of the committee] presiding.

Present: Representatives Dreier, Goss, Linder, Hastings, Sessions, Reynolds and Moakley.

The CHAIRMAN. The committee will come to order. Today the Rules Committee embarks on the first of two original jurisdiction hearings on H.R. 853, the Comprehensive Budget Process Reform Act of 1999. The committee today will receive testimony from three of the lead sponsors of the reform bill as well as analysis by the Congressional Budget Office, the General Accounting Office, the Concord Coalition, the Center on Budget and Policy Priorities and other noted witnesses. Tomorrow we will hear more testimony from many of our colleagues on both sides of the aisle.

This bill is the product of two years of work between members of the Rules and Budget Committees and also represents the first time in almost a decade that the two committees of jurisdiction in the House have come together in a bipartisan manner to construct a comprehensive budget process reform package. This is largely due to the leadership of Porter Goss, who has united the two committees behind a common-sense reform plan which we are committed to bring to the full House for consideration in the near future.

Make no mistake, the current budget process does not work. It is a disorganized patchwork of decades-old rules and laws. This comprehensive bill increases efficiency, improves accountability and strengthens enforcement in the budget process.

Coming from California, let me highlight just one example. We have learned that natural disasters are a fact of life, whether it is hurricanes in Florida, ice storms in New York, floods in Iowa or an earthquake in my home State. We know that there will be some impact on the budget each year. This bill will reform the budget process to require the President and the Congress to face reality and set aside a disaster reserve fund in the budget. We don't need to pit the victims of Mother Nature against those who desire sound fiscal policies, and this is just one of the many sensible reforms included in the bill. Again, it is a very bipartisan measure. We have Democrats who have joined in cosponsoring the bill.

I look forward to the testimony of our distinguished witnesses today and tomorrow to engage in this important debate.  
[The prepared statement of Mr. Dreier follows:]

**Statement of Congressman David Dreier  
Chairman, Committee on Rules**

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Today the Rules Committee embarks on the first of two original jurisdiction hearings on H.R. 853, the Comprehensive Budget Process Reform Act of 1999. The Committee today will receive testimony from 3 of the lead sponsors of the reform bill as well as an analysis by the Congressional Budget Office, the General Accounting Office, the Concord Coalition, the Center on Budget and Policy Priorities and other noted witnesses. Tomorrow we will hear more testimony from many of our colleagues on both sides of the aisle.

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Make no mistake, the current budget process does not work. It is a disorganized patchwork of decades old rules and laws. This comprehensive bill increases efficiency, improves accountability and strengthens enforcement in the budget process.

Coming from California, let me highlight one example. We have learned that natural disasters are a fact of life – whether it's hurricanes in Florida, ice storms in New York, floods in Iowa or an earthquake in my home state – we know that there will be some impact on the budget each year.

This bill will reform the budget process to require the President and the Congress to face reality and set aside a disaster reserve fund in the budget. We don't need to pit the victims of mother nature against those who desire sound, fiscal policies, and this is just one of the many sensible reforms in this bill.

I look forward to hearing the testimony of our distinguished witnesses both today and tomorrow as well as to engaging in this important debate on reforming the budget process in the coming weeks.

With that let me yield to the Ranking Minority Member, Mr. Moakley, for any opening statement he may have.

The CHAIRMAN. With that, I am very happy to call on what looks like a brilliantly written opening statement by my good friend from south Boston, Mr. Moakley.

Mr. MOAKLEY. Thank you, Mr. Chairman. I have a medical appointment right after this, and then I have the rule on the floor.

The CHAIRMAN. I have one of those two things.

Mr. MOAKLEY. You have the medical appointment.

The CHAIRMAN. That's right.

Mr. MOAKLEY. Ever since the Congressional Budget Act became law in 1974, people have blamed it every time they don't get their way. I think if anyone is to blame, it is the actors and not the act. The Budget Act can only set up incentives to do the right thing, it can't force a majority of House Members to make budget decisions against their will.

Mr. Chairman, the bill we are discussing today makes three major changes in the Budget Act, all of which I oppose. First, this bill guts the pay-go rule. Under the current law, as entitlement increases, tax cuts must be paid for. This bill says you don't have to pay for tax cuts or entitlement increases. If there is a surplus, this provision encourages Members to rush out to spend the surplus before anyone else can use it. Any hope of reserving the surplus for debt reduction would be totally lost. So the resources we could be using to fix Social Security and Medicare would be used to pay for a tax cut.

Secondly, the automatic continuing resolutions will set a permanent appropriations level. This will encourage Members to choose between the regular appropriations bills and the automatic continuing resolution.

Third, the joint budget resolution and fall-back will create more incentives for political posturing and delay.

So let's face it, Mr. Chairman, the congressional budget resolution and the President's budget are both political documents, and as long as one party controls the Congress and one party controls the White House, there won't be much negotiation on budget resolutions. No one has any reason to compromise at such an early stage. But if Members can see the fall-back, and if they know that the automatic continuing resolution is in place, the Majority has every reason to pass a budget that forces a Presidential veto and delineates the difference between the parties.

I agree with my colleagues that the 1997 changes to the system for designating emergency spending is in a shambles, but I don't believe these are the ways to fix them. I object to the extraordinary power granted to the Budget Committee Chairman to determine what constitutes an emergency, and I find the definition of emergency unrealistic. For example, Kosovo is neither sudden nor unanticipated, but it certainly is an emergency. Nor do I believe this appropriation lockbox proposal will work any better than lockbox proposals in the past. Everyone agrees that the appropriation caps are working well, maybe just a little too well, and I don't think that we need any more downward pressure on appropriations.

Mr. Chairman, there are a handful of smaller ideas in this bill, some of which are good, such as Mr. Cardin's proposed changes to the budget treatment of insurance programs, and of course my pro-

posal to make unreported measures subject to Budget Act points of order. But some of the smaller ideas are dangerous, such as the definition of the pocket veto. This definition implies, contrary to the long-standing view of the House, that only the budget joint resolution cannot be pocket-vetoed during the session.

Mr. Chairman, despite the inclusion of Mr. Cardin's proposal and mine, this bill contains a lot of dangerous changes to our budget process. We should either leave well enough alone or go back to the drawing board.

[The prepared statement of Mr. Moakley follows:]



**Statement of Congressman Joe Moakley (D-MA)**

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MR. CHAIRMAN, EVER SINCE THE CONGRESSIONAL BUDGET ACT BECAME LAW IN 1974, PEOPLE HAVE BLAMED IT EVERY TIME THEY DON'T GET THEIR WAY.

IF ANYONE IS TO BLAME, IT'S THE ACTORS, NOT THE ACT. THE BUDGET ACT CAN ONLY SET UP INCENTIVES TO DO THE RIGHT THING, IT CANNOT FORCE A MAJORITY OF HOUSE MEMBERS TO MAKE BUDGET DECISIONS AGAINST THEIR WILL.

MR. CHAIRMAN, THE BILL WE ARE DISCUSSING TODAY MAKES 3 MAJOR CHANGES IN THE BUDGET ACT - ALL OF WHICH I OPPOSE.

FIRST, THIS BILL GUTS THE PAY-GO RULE. UNDER CURRENT LAW, ENTITLEMENT INCREASES AND TAX CUTS MUST BE PAID FOR. THIS BILL SAYS YOU DON'T HAVE TO PAY FOR TAX CUTS OR ENTITLEMENT INCREASES IF THERE IS A SURPLUS. THIS PROVISION ENCOURAGES MEMBERS TO RUSH TO SPEND THE SURPLUS BEFORE ANYONE ELSE CAN USE IT. ANY HOPE OF RESERVING THE SURPLUS FOR DEBT REDUCTION WILL BE TOTALLY LOST. SO, THE RESOURCES WE COULD BE USING TO FIX SOCIAL SECURITY AND MEDICARE WILL PROBABLY BE USED INSTEAD TO PAY FOR A TAX CUT.

SECOND, THE AUTOMATIC CONTINUING RESOLUTION WILL SET A PERMANENT APPROPRIATIONS LEVEL. THIS WILL ENCOURAGE MEMBERS TO CHOOSE BETWEEN THE REGULAR APPROPRIATIONS BILLS AND THE AUTOMATIC CONTINUING RESOLUTION.

THIRD, THE JOINT BUDGET RESOLUTION AND FALLBACK WILL CREATE MORE INCENTIVES FOR POLITICAL POSTURING AND DELAY.

LET'S FACE IT, THE CONGRESSIONAL BUDGET RESOLUTION AND THE PRESIDENT'S BUDGET ARE BOTH POLITICAL DOCUMENTS. AS LONG AS ONE PARTY CONTROLS THE CONGRESS AND ONE PARTY CONTROLS THE WHITE HOUSE, THERE WON'T BE MUCH NEGOTIATION ON A BUDGET RESOLUTION. NO ONE HAS ANY REASON TO COMPROMISE AT SUCH AN EARLY STAGE. BUT, IF MEMBERS CAN SEE THE FALLBACK AND IF THEY KNOW THE AUTOMATIC CONTINUING RESOLUTION IS IN PLACE, THE MAJORITY HAS EVERY REASON TO PASS A BUDGET THAT FORCES

A PRESIDENTIAL VETO AND DELINEATES THE DIFFERENCE BETWEEN PARTIES.

ON RELATED MATTER, I AGREE WITH MY COLLEAGUES THAT THE 1997 CHANGES TO THE SYSTEM FOR DESIGNATING EMERGENCY SPENDING IS IN SHAMBLES BUT I DO NOT BELIEVE THESE ARE THE WAYS TO FIX THEM. I OBJECT TO THE EXTRAORDINARY POWER GRANTED TO THE BUDGET COMMITTEE CHAIRMAN TO DETERMINE WHAT CONSTITUTES AN EMERGENCY AND I FIND THE DEFINITION OF EMERGENCY UNREALISTIC. FOR EXAMPLE, KOSOVO IS NEITHER SUDDEN NOT UNANTICIPATED BUT IT CERTAINLY IS AN EMERGENCY.

NOR DO I BELIEVE THIS APPROPRIATIONS LOCK-BOX PROPOSAL WILL WORK ANY BETTER THAN LOCK-BOX PROPOSALS IN THE PAST. EVERYONE AGREES THE APPROPRIATIONS CAPS ARE WORKING WELL, MAYBE A LITTLE TOO WELL, AND I DON'T THINK WE NEED ANY MORE DOWNWARD PRESSURE ON APPROPRIATIONS.

MR. CHAIRMAN, THERE ARE A HANDFUL OF SMALLER IDEAS IN THIS BILL, SOME OF WHICH ARE GOOD – SUCH AS MR. CARDIN'S PROPOSED CHANGES TO THE BUDGET TREATMENT OF INSURANCE PROGRAMS AND, OF COURSE, MY PROPOSAL TO MAKE UNREPORTED MEASURES SUBJECT TO BUDGET ACT POINTS OF ORDER.

BUT SOME OF THE SMALLER IDEAS ARE DANGEROUS – SUCH AS THE DEFINITION OF POCKET VETO. THIS DEFINITION IMPLIES, CONTRARY TO THE LONG-STANDING VIEW OF THE HOUSE, THAT ONLY THIS NEW BUDGET JOINT RESOLUTION CANNOT BE POCKET VETOED DURING A RECESS.

MR. CHAIRMAN, DESPITE THE INCLUSION OF MR. CARDIN'S AND MY PROPOSALS, THIS BILL CONTAINS A LOT OF DANGEROUS CHANGES TO OUR BUDGET PROCESS. WE SHOULD EITHER LEAVE WELL ENOUGH ALONE OR GO BACK TO THE DRAWING BOARD.

THANK YOU.

The CHAIRMAN. As I said, we are very pleased that this bill enjoys wide bipartisan support.

Mr. MOAKLEY. It is not wide enough.

The CHAIRMAN. I am pleased to call on Mr. Goss.

Mr. GOSS. Thank you, Mr. Chairman. I have a prepared opening statement.

The CHAIRMAN. Without objection it will appear in its entirety in the record.

Mr. GOSS. First of all, the distinguished gentleman from Boston knows I never have dangerous thoughts—

Mr. MOAKLEY. Not lately.

Mr. GOSS. And we didn't start out with the idea—

The CHAIRMAN. Why don't you go to your doctor's appointment.

Mr. GOSS. I think the concept of "leave well enough alone" doesn't pass the laugh test, and I remember some of the comments from the gentleman from Boston's party regarding the omnibus bill last October. And I heard more comment that rather than "leave well enough alone", "never again" would have been the appropriate description for that process.

The other areas that you have raised in your opening remarks I think are appropriate areas and have received a lot of attention, and we have tried to come up with what we thought was a good working solution. Obviously we are having these hearings to deal with that. I want to particularly thank Chairman Dreier for pushing forward on this, bringing this to some kind of conclusion and taking our legislative shot at it. I think it is long overdue that we do something in this area. If we haven't got it right, perhaps this process will make it better. I think we have a good product.

As to the definition of emergency and things like that, I submit that two months ago there was not an emergency in Kosovo. The reason that there is one today is because of actions that have been taken, not because of the situation that was. I think there is some room to negotiate what an emergency is, but I think we ought to do it up front, and I think a lot of us feel that it encourages, like Kosovo, that before we do them, we know better what we are getting into.

As for the automatic CR, that is something that we discussed a number of times and have had regular discussion on.

As for the pay-go, I think it makes a lot of sense that all of the playing field be equal when we talk about surplus. I think that is what this bill does. Having said that, no matter how you look at this, any reasonable observer would say that we can make the rules through a budget process.

The CHAIRMAN. Thank you very much.

[The statement of Mr. Goss follows:]

**Statement of Congressman Porter Goss  
Chairman, Subcommittee on Legislative & Budget Process**

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I AM VERY PLEASED THAT WE ARE HOLDING THIS HEARING TODAY, FOLLOWED BY A SECOND SESSION ON THIS TOPIC TOMORROW. IN MY MIND, THE FACT THAT WE ARE MOVING AHEAD WITH BUDGET PROCESS REFORM REPRESENTS ANOTHER CHAPTER IN THE BOOK ENTITLED "PROMISES MADE PROMISES KEPT." I CONGRATULATE YOU ON KEEPING THIS COMMITTEE ON TRACK TO BRINGING FORWARD A COMPREHENSIVE BILL FOR THE FULL HOUSE TO CONSIDER.

THE COMMITTEE IS CONSIDERING THE BILL, HR 853 "THE COMPREHENSIVE BUDGET PROCESS REFORM ACT OF 1999." I AM VERY PROUD TO HAVE PLAYED A PART IN THE DEVELOPMENT OF THIS BILL, WHICH CAME INTO BEING THROUGH A SOMEWHAT UNIQUE, BUT IN MY VIEW EXEMPLARY, PROCESS. THE TWO COMMITTEES OF JURISDICTION OVER THE CONGRESSIONAL BUDGET PROCESS – OUR RULES COMMITTEE AND THE BUDGET COMMITTEE – GOT TOGETHER ABOUT TWO YEARS AGO AND ROLLED UP OUR SLEEVES TO REFORM THE BUDGET PROCESS. THE END RESULT OF THAT PROCESS – WHICH WAS A BIPARTISAN ONE IN THE BUDGET COMMITTEE – IS HR 853.

THIS BILL MAKES SOME VERY SIGNIFICANT RECOMMENDATIONS ABOUT HOW TO IMPROVE OUR CURRENT BUDGET PROCESS – ONE THAT IS ALMOST UNIVERSALLY CRITICIZED BY MEMBERS AND PUBLIC OBSERVERS AS OVERLY COMPLICATED, LACKING IN ACCOUNTABILITY, HARD TO FOLLOW AND WITHOUT ENOUGH EMPHASIS ON ENFORCEMENT OF BUDGETARY DECISIONS AND DISCIPLINE. WHEN WE BEGAN THE TASK OF WRITING THIS BILL, WE SET OUT SOME SPECIFIC GOALS TO MEET – GOALS THAT INCLUDE:

- GIVING THE BUDGET THE FORCE OF LAW AND ENCOURAGING AGREEMENT EARLIER IN THE PROCESS;
- BUDGETING FOR EMERGENCIES;
- STRENGTHENING ENFORCEMENT OF BUDGETARY DECISIONS;
- INCREASING ACCOUNTABILITY FOR FEDERAL SPENDING;
- MITIGATING THE BIAS IN THE BUDGET PROCESS TOWARD HIGHER SPENDING; AND
- MODIFYING PAYGO REQUIREMENTS FOR THE CURRENT ERA OF BUDGETARY SURPLUS.

WE HAVE, IN THIS BILL, BUILT UPON THE GOOD WORK OF MANY MEMBERS, PAST AND CURRENT, ON BOTH SIDES OF THE AISLE. THIS BILL INCLUDES PROVISIONS AUTHORED BY OUR DEMOCRAT FRIENDS JOE MOAKLEY, MARTIN SABO, CHARLES STENHOLM AND FORMER REP. TIM PENNY AND SENATOR BOB KERREY. IT ALSO INCLUDES PROVISIONS BASED UPON LEGISLATION PROPOSED BY CHRIS COX, JOE BARTON, GEORGE GEKAS, NICK SMITH AND MIKE CASTLE.

MR. CHAIRMAN, AS IS ALWAYS THE CASE IN THE GIVE AND TAKE OF THE LEGISLATIVE PROCESS, THIS BILL REFLECTS SOME COMPROMISES BY ALL INVOLVED. IN SOME AREAS, I MIGHT SAY WE HAVE NOT GONE FAR ENOUGH AND WE HAVE NOT DONE EVERYTHING WE COULD – OR MAYBE SHOULD – BE DOING TO FIX THE PROCESS. BUT WE HAVE TAKEN SOME VERY IMPORTANT STEPS IN THIS BILL TOWARD SIMPLICITY, CLARITY, ACCOUNTABILITY AND GREATER EFFICIENCY IN OUR BUDGETING. I LOOK FORWARD TO THE COMMENTS TODAY AND TOMORROW OF OUR DISTINGUISHED GROUPS OF WITNESSES – AND I FEEL SURE THAT WE WILL USE THE OPPORTUNITY OF THESE HEARINGS AND OUR UPCOMING MARK-UP TO FURTHER IMPROVE THIS BILL.

Mr. LINDER. I have only one comment. I think it is long overdue to fix this process. Thank you.

The CHAIRMAN. Mr. Reynolds.

Mr. REYNOLDS. As a cosponsor of this legislation, I look forward to the discussion in the hearing. I have had the honor of serving at town and county and State government levels before being elected to Congress. I now use some of that strength of 25 years that local governments must produce a balanced budget, and the Governor of New York is required by the State constitution to present a balanced budget to the legislature, and then for the legislature to adopt a balanced budget within that. So the State and county and local governments simply must balance their budgets and are required to do so by a cohesive and time-line process.

Congress needs to reform the existing budget process to make the necessary changes to get a more accurate picture of what we are dealing with in the new millennium.

The CHAIRMAN. Mr. Sessions, you have missed a load of brilliant opening statements.

Mr. SESSIONS. Mr. Chairman, I did miss some, and when my colleague from New York speaks, we speak with one voice.

The CHAIRMAN. Thank you all very much, and let me say that it is a privilege once again to see Dan Crippen and to formally congratulate him. He is the fifth Director of the Congressional Budget Office, having been appointed to the that post just a couple of months ago in February. From 1987 to 1988, he served as the President's advisor on all issues relating to domestic policy, including the presentation of the Federal budget. From 1981 to 1985, he served as chief counsel and economic policy advisor to the Senate Majority Leader, working on major tax and budget bills.

Prior to joining the CBO, Mr. Crippen was a principal with the consulting firm Washington Council. He has also served as executive director of the Maryland International Advisory Council and senior vice president of the Duberstein Group.

Let me welcome you. I look forward to your testimony.

I apologize right now, I don't have to go to the doctor like Mr. Moakley, but I have to make a call, and then we have to be down on the floor on our Y2K bill, which is coming up, and Mr. Goss is going to be presiding.

Obviously as a cosponsor of the bill, I think it is very clear that I do have a great interest in bringing about this reform, and we are going to try our darnedest to make it more bipartisan.

If you have any lengthy prepared remarks, we will include those in the record without objection.

Mr. CRIPPEN. I have a 2-minute version and a ten minute version.

The CHAIRMAN. Gosh, should we flip a coin.

We will look forward to your 2-minute version.

#### **STATEMENT OF DAN L. CRIPPEN, DIRECTOR, CONGRESSIONAL BUDGET OFFICE**

Mr. CRIPPEN. Mr. Chairman, and Members of the Committee, thank you for the opportunity to testify on the Comprehensive Budget Process Reform Act of 1999. It responds to many of the con-

cerns that have been voiced by Members of Congress and others in recent years.

A joint budget resolution inviting the President to negotiate early in the year on the budget has merit, but it is no panacea. If there were wide disagreements, the joint resolution might delay the process, having to go through a veto and the fallback mechanism. If there were no wide disagreements, the joint resolution would be unnecessary.

An automatic continuing resolution has substantial merit, especially to avoid a government shutdown. Working out a suitable determination for an appropriate funding level will require the concurrence of the appropriators, in which case you may want to consider a number of alternatives to the current levels. You might choose the average between the House and Senate or some other level.

Insurance reform is great in theory but difficult to carry out. The six years envisioned for implementing reform is a minimum, although some types of insurance might be scored earlier than that.

If you were to do nothing else on emergency spending, simply codifying the definition would be helpful. Without a definition, it matters little what else you do.

Finally, Mr. Chairman, the extensive changes proposed by the bill suggest a broader issue of budget process reform that should be addressed. It is time to convene a new Commission on Federal Budget Concepts. In general, federal budget concepts are based on the recommendations of the 1967 President's Commission on Budget Concepts. Although the commission's guidelines continue to apply broadly in the budget process, they do not address certain fundamental issue that lawmakers and budget scorekeepers currently face. For example, various proposals to reform Social Security, especially those that call for personal retirement accounts, raise thorny questions about the appropriate budgetary treatment. Further, the dividing line between federal spending and revenue law has become blurred, as evidenced by the increasing use of refundable tax credits as a device for expanding budgetary resources. The use of public/private partnerships, such as those involved in military housing and various lease-purchase agreements also raises questions of budgetary treatment for which the 1967 Commission's recommendations provide little or no guidance.

These and other issues put budget scorekeepers in a difficult position as they seek to apply outdated or incomplete concepts to novel budget policies. That situation suggests the need to reevaluate the current budget concepts and to try to reach consensus on changes that will make them clear, comprehensive, and more effective. I encourage the committee to consider that enough has changed in the past 30 years to warrant another look at our rules.

The CHAIRMAN. Thank you very much. That is very helpful. We appreciate it.

[The prepared statement of Mr. Crippen follows:]

**Statement of Mr. Dan L. Crippen  
Director, Congressional Budget Office**

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Mr. Chairman, Congressman Moakley, and Members of the Committee, thank you for the opportunity to testify on H.R. 853, the Comprehensive Budget Process Reform Act of 1999. That bill reflects the work of the House Budget Committee's Task Force on Budget Process from the 105th Congress, which was headed by Congressmen Nussle and Cardin. It responds to many of the concerns and complaints about the budget process that have been voiced by Members of Congress and others in recent years.

The task force, which worked closely with the House Rules Committee, held several hearings on major reform issues and heard from many witnesses. The members of the task force should be commended for their hard work and thorough analysis of these thorny budget reform issues. They have produced a wide-ranging and ambitious measure.

The major purposes of H.R. 853 are to encourage early budget agreement between the President and the Congress, improve planning for emergencies and budgeting for federal insurance, reinvigorate legislative oversight and review of federal programs, end the threat of disruptive government shutdowns, and allow more flexibility in the use of budgetary offsets. It would seek to accomplish those goals by converting the budget resolution into a measure that would become law, creating a reserve-fund procedure for emergency spending, establishing new requirements for the review and reauthorization of federal programs, moving toward an accrual basis of accounting for federal insurance programs, putting in place automatic continuing appropriations, modifying pay-as-you-go (PAYGO) rules to clarify the use of projected on-budget surpluses, and making other changes.

My testimony will make the following major points about H.R. 853:

- Enacting the budget resolution into law could change the Congressional budget process into a joint legislative/executive budget process. That change might have significant advantages, including potentially swifter resolution of policy differences between the President and the Congress and more timely action on budgetary legislation. However, when broad policy differences were substantial, the President could veto the joint budget resolution, and a budgetary stalemate could emerge. In that case, fallback procedures in the bill would allow the Congress to adopt a budget resolution under the legislative-only process that is currently in place.



- Automatic continuing appropriations would address a major problem in the budget process—the annual threat of a government shutdown caused by lapsed funding authority. That change is intended to eliminate the funding crisis that awaits policymakers and federal agencies each year and may also have beneficial effects on the legislative process. However, enacting automatic funding for discretionary programs would also remove one of the true action-forcing deadlines in the budget process and could favor the continuation of funding at the current rate.
- The procedures for an emergency spending reserve and the new accounting provisions for federal insurance have the potential to improve planning for unanticipated expenses and provide explicit information on long-term budgetary commitments. Whether those changes would be likely to improve budgetary control and accountability is unclear.
- Proposed changes that would require the periodic review and reauthorization of federal programs might also help promote the goals underlying the Government Performance and Results Act of 1993.

## OVERVIEW AND ANALYSIS OF H.R. 853

The following is a brief overview and analysis of the major features of the bill.

### Converting the Budget Resolution into Law

Title I of the bill would convert the concurrent resolution on the budget into a joint resolution that would become law. April 15 would remain the target date for final enactment. The contents of the joint resolution would generally be restricted to aggregate budget levels (total spending, revenues, deficit or surplus, and debt) and broad spending breakdowns—for mandatory, discretionary (defense and nondefense), and emergency spending. Functional categories of spending and reconciliation instructions would be included in the accompanying committee reports instead of in the text of the resolution itself. If the President vetoed the joint budget resolution, the Congress would be authorized to adopt, under expedited procedures, a concurrent resolution that would serve as the budget resolution for Congressional enforcement purposes (points of order, committee allocations, and reconciliation instructions).

Providing for a budget resolution in law could make overall budget agreement with the President a primary focus of the Congressional budget process. Whatever its merits, that provision would represent a major shift from the original purpose underlying the Congressional Budget Act of 1974. That act was intended to give the Congress, through the adoption of a concurrent resolution on the budget, the means to establish and enforce its own budget priorities independent of the President.

Some Members and observers trace the recent record of budgetary delay and gridlock to the budget process set forth by the 1974 act. But it is not clear that the existence of an independent Congressional budget process has exacerbated delays. It is also not clear that carving out a formal role for the President in that process will foster overall agreement and pave the way for timely action on budgetary legislation. However, in years when budgetary conflict between the President and the Congress is intense, having a formal mechanism for reaching broad agreement may have advantages. As proponents point out, converting the budget resolution into a law effectively formalizes the informal budget summitry of recent decades, but it has the added advantage of scheduling summits early each year. When overall differences were large and could not be

bridged, the President would veto the resolution and the Congress, using the bill's fallback procedure, could move forward with its own alternative plan much as it does now. When overall differences were small, the statutory budget resolution would seem to make little difference one way or the other.

By formalizing budget summitry, however, the joint budget resolution might also change the dynamics for reaching agreement. Budget summits have been informal and irregular, and the number and composition of the participants have varied. Budget summits have not occurred every year and have not always led to final agreement. In some years, particularly following multiyear budget agreements, they have not been needed. In others, the magnitude of the differences precluded agreement. Simply formalizing the process through a joint budget resolution would probably not make overall budget agreement easier, and it might simply highlight and sharpen differences by eliciting a veto when agreement could not be reached.

Because of the bill's fallback procedure, the Congress would still be able to adopt a concurrent budget resolution in the event of a veto. That provision would guard against some of the procedural delays on budgetary legislation that the Congress would face because of an impasse with the President over the budget resolution. However, since the fallback procedure would not go into effect until a veto occurred, the Congress would still have to reach its own consensus on the budget resolution before it could move forward under that procedure.

The bill would simplify the budget resolution principally by removing functional categories of spending and reconciliation instructions from the text of the resolution and placing them in the committee report. That change could help to better focus Congressional debate on broad budget priorities. It would also remove provisions of the resolution that could create further obstacles to final agreement with the President and might have uncertain meaning if enacted into law. However, such a change could also make the resolution less clear as a guide to policy and might raise questions about the status of reconciliation instructions to committees under House and Senate rules.

### **Creating a Reserve Fund for Emergencies**

Title II of the bill would set up a reserve fund for emergency spending that is intended to encourage planning for emergencies, subject emergency spending to budgetary constraints, and establish criteria for emergency spending. The current exemption for designated emergencies from enforcement under the discretionary caps and PAYGO would be repealed.

The bill provides a statutory definition of emergency. In general, it defines a budget emergency as any unanticipated situation that requires federal spending to mitigate, prevent, or respond to "loss of life or property, or a threat to national security." The President's budget and the joint budget resolution would be required to include emergency spending levels as a separate spending category (divided into discretionary and mandatory amounts). Those levels would have to equal the average of the amounts enacted for emergencies over the previous five years.

When the House or Senate considers legislation with emergency spending, the Budget Committee Chairman must certify that those amounts are for an emergency as defined by law. Any legislation that would exceed the emergency spending levels established in the budget resolution must be referred to the Budget Committee. If the committee decides that the spending fits within the

statutory definition of emergency, it may then amend the legislation with a provision exempting the emergency spending from the discretionary caps or PAYGO requirement, as appropriate.

Budgeting for emergency spending is inherently difficult and uncertain. Emergency funds are provided for a wide variety of purposes, are administered by many agencies, and are often unpredictable. Yet experience shows that emergencies will indeed arise and on a fairly regular basis. Since the Budget Enforcement Act of 1990 (BEA) went into effect, annual emergency spending unrelated to the Persian Gulf War (which was offset by foreign contributions) has fluctuated between about \$1.5 billion in 1991 and about \$21 billion this year, averaging nearly \$9 billion a year. The exemption for emergency spending from BEA enforcement procedures may have been used as an excuse to avoid planning for emergencies and may also have served as a loophole in some years for unnecessary or excessive spending.

The bill's reserve-fund procedure would help to promote better planning for emergencies. It would establish useful guidelines and budgetary controls, enforced under the budget resolution, that would inform the debate and help policymakers more effectively judge both the merits and the appropriate magnitude of emergency funding measures. In particular, the codification of an accepted definition of emergency spending would clearly be an improvement over the current "anything goes" situation.

Under certain circumstances, the reserve-fund procedure could become cumbersome and could slow consideration of measures to fund emergencies. Emergency spending typically is included in a number of regular and supplemental appropriation bills each year. Depending on when the budget resolution is adopted, action tends to be concentrated between June and September. Under H.R. 853, emergency reserve amounts would be released by the Budget Committee Chairmen as qualified bills were reported and considered. That could become a daunting task when multiple appropriation bills were reported or were pending before the Congress.

Whether the bill's emergency spending reserve would hold costs below historical averages is unclear. Fashioning a purely budgetary mechanism to reduce or eliminate the need for emergency spending would be difficult at best. To reduce the pressure to provide emergency funds, the Congress would need to make changes in the programs that fund emergency needs—for example, to incorporate measures to mitigate the costs of natural disasters. Uncertainty is likely to remain a central and unavoidable element of any process designed to budget for and control emergency expenses, but with or without a new emergency spending reserve, enacting into law an appropriate definition of what constitutes an emergency should help reduce abuses.

### **Strengthening Accountability for Federal Spending**

Title IV of H.R. 853 would make several changes intended to improve the accountability and legislative oversight of federal programs. It would require Congressional committees to establish a timetable for reviewing all programs within their jurisdiction—including existing entitlements—at least once every 10 years. It would also prohibit the Congress from considering legislation that provides mandatory spending for a new program or authorizes discretionary appropriations unless the legislation would expire after 10 or fewer years. The bill would allow the Chairman of either the House Budget or the House Appropriations Committee to offer a floor amendment that would make mandatory spending for a new program subject to annual appropriation.

One of the most vexing reform issues facing lawmakers is how to achieve a proper balance between the rigors of the budget process and the need for effective program oversight. Many lawmakers and observers are concerned that too much attention is focused each year on budgetary matters and that the important work of reviewing and evaluating the performance of federal programs is too easily pushed aside. For example, as of the beginning of this year, nearly one-fifth of total 1999 discretionary appropriations funded programs for which the underlying authorizations of appropriations had expired.

The changes proposed by H.R. 853 are designed to enhance oversight and accountability. They also implicitly acknowledge the link between effective oversight and budgetary discipline. In 1993, the Congress passed the Government Performance and Results Act (GPRA) to require federal agencies to establish strategic plans and performance measures. Performance measures for federal programs are now included in the President's budget alongside the funding requests for those programs. The act's basic intent is to provide performance measures that can help lawmakers hold agencies accountable for achieving program objectives and to allow funding priorities to be based in part on whether agencies have lived up to their own standards of performance. Regular legislative review of federal programs, as envisioned by H.R. 853, could help support the goals underlying GPRA.

The new requirements, however, could at times impose a heavy burden on the legislative process. For example, one goal of H.R. 853 seems to be converting permanent authorizations of appropriations to a periodic cycle. But doing so might only exacerbate the current problem of unauthorized appropriations. Expired authorizations are one of the factors that delay the annual appropriation process. Lawmakers must be careful to avoid requirements that will only lead to further bottlenecks for annual appropriations. One option would be to stagger the program-review schedule for committees so that not all such reviews were considered at or around the same time.

### **Budgeting for Federal Insurance**

Title V of the bill, the Federal Insurance Budgeting Act of 1999, would change the budgetary treatment of federal insurance from a cash basis to a more prospective method of recognizing the long-term cost of such programs. The objective is to provide decisionmakers with information and incentives to better control losses in federal insurance. The current budgetary treatment obscures the government's exposure to risk over the long term and fails to motivate a balancing of premiums against losses.

Specifically, this reform would require agencies to estimate the projected insurance premiums and costs, including claims payments and recoveries, over the life of insurance commitments. The change in the present value of projected multiyear losses (or gains) to taxpayers would be reported as outlays (or collections) in the budget. Thus, the effect of an insurance program on the budget surplus or deficit would be the change in the expected long-term gain or loss to the government in the budget year.

For the largest federal insurance programs, including pension and deposit insurance, the effects on the budget would be significant. The key feature of those programs is that their commitments extend far into the future; premium income is likely to arrive steadily, while losses occur episodically and unexpectedly. Under cash-basis accounting for insurance, the current and

projected budget years usually show net cash inflows to the government from premiums, with few losses anticipated from insured events. Showing net cash inflows is the norm because premium receipts are expected, but identifying specific future years in which large numbers of pension or bank failures will occur is difficult.

Consider, for example, the Pension Benefit Guaranty Corporation (PBGC), the federal program that insures the defined benefit pension plans of private-sector companies. Every year since it came on-budget in 1981, PBGC has collected more in premiums and other income than it has paid in pension benefits and administrative expenses. In 1998, when its net inflow totaled \$1.2 billion, the federal deficit was consequently \$1.2 billion lower. For 1999 and 2000, the President's budget projects net cash inflows for PBGC of \$843 million and \$1 billion, respectively.

Although that budgetary picture makes PBGC appear to be a moneymaker for the U.S. government, cash-based accounting does not acknowledge the liabilities that the agency has accrued but has yet to pay and does not address taxpayers' exposure from the insurance commitments. Although PBGC has assets totaling about \$18 billion, it has also accumulated liabilities to current and future retirees that total over \$12 billion. PBGC's net assets of \$5.4 billion stand in contrast to the agency's report of \$15 billion to \$17 billion in future losses that are "reasonably possible." Thus, PBGC's overall financial position may not be nearly as strong as that implied by cash-based accounting.

The proposed budgetary treatment of PBGC would balance projections of premium income with the likelihood that claims will eventually be paid—in whole or in part—from those premiums. That approach would report on the long-term financial status of PBGC but by doing so could reduce or even eliminate the reported financial gain to the government from pension insurance. The proposed accounting reform could have a similar offsetting effect on projected premium income from deposit and other long-term insurance programs, whose net effect on the budget under current practice is also to move the budget in the direction of surplus.

One of the major challenges posed by the proposed reform is the difficulty of assessing future losses under various federal insurance programs. The proposed approach has an advantage over cash-basis budgeting in that assigning losses to specific years in order to budget for anticipated costs would not be necessary. Nonetheless, estimating future losses from insurance commitments would require substantial data collection and analysis, and there is no assurance that reliable estimates could be obtained.

The proposed legislation acknowledges the magnitude of that task and the uncertainty of success by authorizing appropriations to pay the cost of the analytical work, delaying full implementation until fiscal year 2006, and terminating the act at the end of fiscal year 2007. The lengthy transition is appropriate and would give agencies with operating responsibilities for insurance programs—as well as the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO)—some time to collect the relevant data, develop and test financial models of those processes, and display the results in the budget documents on a trial basis. The bill would also require extensive public disclosure of the methods used to project losses and provide for public comment and subsequent revision of those methods. Finally, in fiscal year 2005, OMB, CBO and the General Accounting Office would each report to the Congress on the advisability and appropriateness of the new budgetary treatment of federal insurance programs. If the assessments contained in those

reports were sufficiently negative, the Congress might want to reevaluate the changes before they were carried out.

A sharp contrast exists between the deliberate approach envisioned in H.R. 853 and the much faster timetable of credit reform, a closely related change in budgetary accounting adopted in 1990. Accounting under credit reform is more straightforward than the proposed accounting change for insurance programs because loans and loan guarantees generally cover fixed periods, whereas the government's insurance commitments extend indefinitely. The new methods that agencies developed for anticipating insurance losses during a period of experimentation and evaluation would be of particular interest.

### **Creating Automatic Continuing Appropriations**

The bill would provide for automatic continuing appropriations in the event that one or more of the 13 regular appropriation bills were not enacted by the beginning of the fiscal year. It would fund programs at the current rate—the level that was provided for the prior fiscal year.

That reform would address the problem of the potential budgetary “train wreck” that awaits lawmakers at the beginning of each fiscal year because of delays in enacting annual appropriations. In the post-World War II era, continuing appropriations (referred to as continuing resolutions, since they are typically enacted in the form of a joint resolution) have been enacted in most years. Until the early 1970s, those measures engendered relatively little controversy. Since then, however, the intensity of overall budgetary conflict has sometimes made it difficult even to enact short-term continuing resolutions, occasionally leading to brief government shutdowns for nonessential activities. In some years, continuing appropriation laws have also become last-minute vehicles for major substantive legislation.

Enacting automatic continuing appropriations would end the crisis atmosphere that surrounds the appropriation process at the end of each session. It would also end the disruptive effects of potential and actual government shutdowns. Further, without the availability of a must-pass continuing resolution, there would be no year-end legislative vehicle to which lawmakers could attach unrelated policy riders.

However, certain cautions are in order. Automatic appropriations would bring an end to one of the only action-forcing deadlines in the budget process, giving an important legislative advantage to defenders of the status quo. For example, a determined minority in the House or Senate that opposed changes in current funding levels could more easily thwart a prevailing consensus in support of those changes. In some cases, that might work to the President's advantage, especially if he had enough legislative support to uphold his veto power. Members of the Rules Committee may wish to work with the Appropriations Committee, to which H.R. 853 was jointly referred, to devise a formula for automatic continuing appropriations that ensures a reasonable level of continued funding but also includes procedures to encourage timely action on regular appropriation bills.

### **Budgeting in an Era of Surpluses**

The bill would change the PAYGO process to require an on-budget surplus (essentially, a surplus excluding the Social Security trust funds) projected for the upcoming fiscal year to be included on the PAYGO scorecard for that year. In general, such a change would make it possible to enact legislation increasing

mandatory spending or cutting taxes without offsets up to the amount of a projected on-budget surplus for the year.

That change would add some flexibility to the PAYGO rules without jettisoning the overall budgetary discipline that they now impose, since legislation causing an on-budget deficit would still have to be offset. Further, since PAYGO is enforced one year at a time, PAYGO legislation enacted after the change took effect could require legislated offsets or even trigger a PAYGO sequestration in later years if sufficient on-budget surpluses were not also projected in the sequestration reports for those years. Because the PAYGO requirement is enforced with OMB estimates, the future use of that change would rely on the Administration's budget projections.

#### **Using Current-Year Levels in Baseline Budget Projections**

In general, H.R. 853 would require the budget projections used for the President's budget and the budget resolution to be compared with unadjusted current-year levels in addition to current-law baseline levels. The bill would also require CBO's annual economic and budget outlook and cost estimates to include comparable levels for the current year, although CBO already complies with that requirement for the most part.

Some people have expressed concern about the effects of "baseline budgeting." In general, they contend that the future budgetary effect of proposed policy changes should be measured from current unadjusted spending and revenue levels instead of levels that reflect the estimated effect of current policies and economic assumptions carried forward into future years. Although current-year data are available and are typically used in the annual appropriation process to evaluate proposed changes in discretionary appropriations, they are not routinely used in describing the effects of proposals that would change mandatory spending and revenue laws.

Highlighting current-year data in the President's budget, the budget resolution, and CBO's analyses and cost estimates could make those data more accessible and easier to use. However, the current-law baseline remains essential for lawmakers when considering changes to mandatory spending programs and taxes.

#### **Adding a Spending-Reduction Lockbox**

The bill also includes a "lockbox" procedure intended to preserve the savings from amendments to appropriation bills that reduce spending. The House passed similar legislation in both the 104th and 105th Congresses.

Under the bill's lockbox procedure, any Member offering a spending-reduction amendment to an appropriation bill would be allowed to designate whether the savings would be credited to the lockbox, used as an offset for other appropriations, or remain under the Appropriations Committee's spending allocation. The Budget Committees would be responsible for maintaining a ledger of the appropriate distributions for amendments approved by the House or Senate. For amounts credited to the lockbox, the discretionary spending limits and Appropriations Committee allocations would be lowered by an amount that split the difference between the House and Senate savings.

The bill's lockbox procedure addresses a concern of some Members that the savings from spending-reduction amendments to appropriation bills approved by the House or Senate tend to be restored or shifted to other accounts once the

bill reaches the conference committee stage. The new procedure would “lock in” those savings by reducing the allocations of spending to the Appropriations Committees made under the budget resolution (after appropriation bills had passed the House and Senate) and by reducing the statutory discretionary spending limits (after the bills were enacted into law) by an amount of estimated savings. A lockbox concept was used in the Line Item Veto Act under which the discretionary spending limits were reduced by the total amount of savings from any item vetoes that were not overturned.

The lockbox procedure could improve budgetary discipline, but it might also make the annual appropriation process more complex and less flexible. It might be more efficient and less cumbersome for lawmakers to reevaluate the discretionary spending limits when considering the joint budget resolution than to do so in piecemeal fashion as individual appropriation measures were considered and approved.

## CONCLUSION

H.R. 853 is a major budget reform bill. Elements of the measure—such as the emergency spending reforms, the changes in the budgetary treatment of federal insurance, and the new requirements for legislative review and program evaluation—could take positive steps toward addressing certain problems. The major structural reforms in the bill—principally the joint budget resolution and automatic continuing appropriations—could also lead to improvements in the annual budget process but would not be without potentially significant drawbacks.

To some extent, however, the same could be said of all of the major budget process reforms enacted since 1974. In general, major budget reforms should be approached cautiously. They tend to increase overall complexity, shift power, and have unintended effects. Lawmakers will want to weigh all of those factors as they consider the significant changes proposed by H.R. 853 or any other major budget reform proposal.

The extensive changes proposed by the bill also suggest a broader issue of budget process reform that should be addressed at some point: is it time to convene a new commission on federal budget concepts? In general, federal budget concepts are based on the recommendations of the 1967 President’s Commission on Budget Concepts. Although the commission’s guidelines continue to apply broadly in the budget process, they do not address certain fundamental issues that lawmakers and budget scorekeepers face. For example, various proposals to reform Social Security, especially those that call for personal retirement accounts, raise thorny questions about appropriate budgetary treatment. Further, the dividing line between federal spending and revenue law has become blurred, as evidenced by the increasing use of refundable tax credits as a device for expanding budgetary resources. The use of public/private partnerships, such as those involving military housing and various lease-purchase arrangements, also raises questions of budgetary treatment for which the commission’s recommendations provide little or no guidance.



Those and other issues put budget scorekeepers in a difficult position as they seek to apply outdated or incomplete concepts to novel budget policies. That situation suggests the need to reevaluate current budget concepts and to try to reach a consensus on changes that will make them comprehensive, clearer, and more effective.

The CHAIRMAN. Let me jump right into the issue that I raised in my opening remarks, that being this emergency reserve fund. Do you have any thoughts about that? We were talking in a meeting yesterday about the Oklahoma situation, and last Thursday the Federal Emergency Management Agency indicated that they had everything necessary fundingwise to deal with that. Over the weekend and the last couple of days when the President went there, he came back and requested \$372 million. Now we have been told that there is a request for nearly three times that amount, approaching a billion dollars, to go to the Federal Emergency Management Agency.

My personal response to that is we should proceed with what is necessary rather than all of a sudden just building up a huge surplus there for emergencies, but the proposal that we have in this measure obviously calls for us to move in the direction of setting up a fund there. What thoughts do you have about that version?

I will tell you that I have tried to get us to a point where the American people don't immediately come to Washington every time there is a disaster, natural or man-made, and we have worked in the past on legislation which would set up a joint public-private partnership with the insurance side. We are still working on that and hoping that we can move on that. But as we try to approach this question, would, in fact, building up a reserve there create a situation where people would more naturally be inclined to draw on it? What thoughts do you have about that?

Mr. CRIPPEN. You can limit that, depending on the definition of emergency and what conditions you delegate to the Budget Committee Chairmen in order to designate something an emergency.

The most important issue is the definition of what constitutes an emergency. Once a definition has been reached, the only other concern is how a reserve fund might work, particularly in floor debates. For example, how quickly could the Budget Committee Chairmen make these determinations? So how a reserve fund might work is unclear, but we don't have any evidence from states that have contingency funds and rainy-day funds, or whether such funds encourage emergency designations.

The CHAIRMAN. How many States have that?

Mr. CRIPPEN. Almost all. I think well over 40 do. And most have constitutional or statutory requirements that they have a balanced budget. So as part of that process, they tend to do contingency budgeting.

We have had a wide range of emergency designations in the recent past—from about a \$1.5 billion to \$21 billion (in fiscal year 1998). Whether or not you think all of the \$21 billion was for emergencies is another question, but the range is big in terms of the amount of funds required.

The Federal Emergency Management Agency (FEMA) tends to go out and address an emergency or a disaster and come back and request a replenishment of funds. So in some sense, FEMA works on the notion of a reserve basis already. Expanding that approach to other agencies that become involved in emergency situations might be an alternative to having the Congress establish a reserve-fund procedure.

The CHAIRMAN. Do you want to respond to any of the specific concerns on pay-go and other issues raised by Mr. Moakley in his opening statement?

Mr. CRIPPEN. Whenever you begin to change these processes, you may be changing the dynamics, political power, and other things. The only concern I have—and it wasn't addressed quite directly by Mr. Moakley, is that we take care not to shift power away from the Congress in dealing with these matters.

The Congress established this whole process—in the wake of the Nixon impoundments and called it the Budget Impoundment and Control Act. It is not just a budget act. The tension between the President and the Congress prompted the establishment of the Congressional Budget Office. I think we need to take care not to give up Congressional power in the interest of expediency.

But I am not as concerned as Mr. Moakley is about automatic continuing resolutions. There are a lot of issues about how they would work and, in turn, who the balance of power would go to—the appropriators, the President, or the Congress.

The CHAIRMAN. There is some bipartisan concern about automatic CRs.

Thank you very much, Dan. I will turn the opportunity to question and the Chair over to Mr. Goss.

Mr. GOSS. [Presiding.] Thank you, Mr. Chairman. I wish you success in your rule.

I wanted to ask a little bit on the emergency. We looked a lot at that, and there are any number of definitions that you could use, and I am in agreement with your testimony that we ought to try to corral it a little bit. We may not get it exactly right, but anything we do would be an improvement.

In that spirit I am mindful of the Federal insurance agency and flood insurance, FEMA, and relocation revolving funds, and all of those mechanisms that are out there. I am not talking about how you do it. What I am trying to say for budget purposes so we don't have surprises every year that break the bank up here, and in addition to the surprise the opportunity to break the bank even further because of the practices that go on now, can we make an improvement? And I think the answer is yes.

One of the things that I am concerned about besides the definitional questions that have been raised is the amounts, the numbers. How much is the right amount for a rainy day fund? We have some language about a five year rolling average. Does that make any sense?

Mr. CRIPPEN. Sure.

Mr. GOSS. Is there a better way to do that?

Mr. CRIPPEN. Probably not. It is arbitrary. The amount has ranged from about \$1.5 billion to \$20 billion in the recent past. The average has been \$5 billion, but as with all averages, it depends on your experience. The amount put in is arbitrary, but the rolling average seems to make sense.

Mr. GOSS. The fence you build around that, it seems to me, is going to be very important as well. And when we talk about the rolling averages, we need to define emergency, because we don't want to count the underexpenditures that get added onto emer-

agency legislation because it is passing. Is that a reasonable conclusion?

Mr. CRIPPEN. Yes. That is why I raised the one concern—How does it get worked out on the floor when you have an emergency supplemental and amendments are being added? How does the Budget Committee address that issue. Saying this is an emergency but that is not, might complicate floor consideration of the proposed measures.

Mr. GOSS. Fair enough.

There are a couple of responses I would like to get for the record. We are trying to complete a record which has been going on for some time. In your testimony you mention the Catch-22 between trying to encourage more authorization of spending while at the same time discouraging more authorizations. In reference to the timetable for reauthorizations that committees would establish, you suggested some form of staggered program with the schedule. Would you please comment further on that, on your suggestions in that area?

Mr. CRIPPEN. The notion I was trying to convey: is pretty simple if you have a ten year sunset on major authorizing bills, you would not want them all to expire at the same time. It is a notional idea, but we have to be careful about how you do that, and once you get started on the schedule, you would want to stagger how the operations would come up and be required.

Mr. GOSS. How much information does CBO have on this subject right now?

Mr. CRIPPEN. Each year we compile a report, which we issue in January, on how many programs were appropriated for the current fiscal year without authorization.

Mr. GOSS. So this is information that is readily available?

Mr. CRIPPEN. Yes. And for other agencies, too.

Mr. GOSS. Thank you very much. That is very helpful.

Mr. LINDER.

Mr. LINDER. I would like you to comment on what I have seen pursuant to the Federal rules on tax cuts, the result of that.

Mr. CRIPPEN. We clarify the ability to use surpluses for tax cuts, and the answer would be yes, the bill does that.

Mr. LINDER. When you talk about the five-year rolling average, in your observation of the history going from \$1 billion to \$20 billion, are we getting more and more disaster claims?

Mr. CRIPPEN. On a five year rolling average, \$21 billion was clearly out of the normal range, but last year was an unusual year. So I don't know that there is a trend. There may be a slight trend, but if you drop last year, the \$5 billion average is a good place to start with adjustments.

Mr. LINDER. I have watched more and more money shifting from appropriated categories to other categories, such as the supplemental bill last year for Strategic Defense Initiative. Is there anything in the Budget Act to solve that?

Mr. CRIPPEN. No. The rules are designed to allow those kinds of funding changes. In this instance, if you have the votes, you can do it. I can't see an easy way of—

Mr. LINDER. What about if there are no votes? It was appropriated directly for SDI.

Mr. CRIPPEN. I am sorry, I don't know the answer. But the numbers should prevent that from happening.

Mr. LINDER. Is there ever a time when we are treating emergencies for private insurance or rate insurance?

Mr. CRIPPEN. To some extent, yes. You do that in public/private partnerships, flood insurance and other things. There will always be unforeseen risks—instances in which the losses are so large that it becomes very difficult for an actuary to decide what the premiums are and, in turn, to encourage citizens to buy that kind of insurance because the events are so rare. Short of mandates from the federal government, buying insurance is difficult to get the kind of inclusive coverage for those, but it is certainly possible. There has been consideration to ask for insurances, but it takes a fair amount of guidance from the Federal Government.

Mr. LINDER. Thank you.

Mr. GOSS. Mr. Hastings?

Mr. HASTINGS. I don't have any questions, Mr. Chairman.

Mr. GOSS. Mr. Reynolds?

Mr. REYNOLDS. No, I am fine. Thank you.

Mr. GOSS. We have a couple of unanswered questions which we would like to submit for the written record, if that is satisfactory. They are straightforward and basically follow your commentary in your prepared statement.

Mr. CRIPPEN. Okay.

[The information follows:]

**Submitted Questions and Answers**  
**Mr. Dan L. Crippen**  
**Director, Congressional Budget Office**

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1. Would you elaborate on your comments regarding the relationship between the use of a joint resolution and a concurrent resolution specifically with respect to the role the budget resolution plays in Congressional enforcement? How might that change under the proposals contained in H.R. 853?

**Answer.** Under current practice, the Congressional budget resolution enables the Congress to establish and then to enforce its own broad budget priorities. By contrast, H.R. 853 would change the resolution into a vehicle for the Congress and the President to establish and enforce joint budget priorities.

This basic change could have two broad effects on Congressional enforcement. First, it is likely to affect the timing of Congressional action on spending, revenue, and other budgetary legislation. As under current practice, lawmakers would have to reach agreement on the resolution before considering legislation affecting spending or revenues. However, depending on the nature of the policy differences between the Congress and the President, converting the budget resolution into a measure that could be enacted into law might accelerate or delay initial Congressional action on such legislation.

Second, a joint budget resolution could become a means for making budget enforcement procedures and practices more uniform. Although broadly similar, the procedures and practices used to enforce the Congressional budget resolution differ from those used to enforce the statutory discretionary spending limits and the pay-as-you-go requirement. Those differences lead to additional complexity and cause confusion. Certain of them could be resolved in a statutory budget resolution. However, making budget enforcement procedures more uniform could also make them less disciplined, since spending and revenue legislation could face fewer hurdles to enactment.

2. You raised the issue of the fall-back mechanism to a concurrent resolution should Congress and the President fail to reach an agreement on a joint budget resolution. However, you raised some concern with the fact that the fall-back was not triggered until the President vetoed a joint resolution. What might be an alternative trigger or an alternative sequencing that may alleviate some of your concerns raised here?

**Answer.** The bill's fallback procedure ensures that following a veto of a joint budget resolution, the Congress would not be deprived of a formal budget process. However, that procedure does not necessarily mean that the Congress

would simply ratify a budget resolution that was vetoed by the President. If the Congress was unable to muster the two-thirds majorities needed to override the President's veto, it might have to forge a new budget consensus under the fallback procedure. The Congress could use the fallback procedure to simply agree to the resolution vetoed by the President, but that consensus might not hold without the President's involvement, perhaps resulting in considerable delay.

Another option would be to use a so-called spin-off law to ratify a budget agreement reflected in the budget resolution. That approach, initially proposed during the 102nd Congress in H.R. 5676 (sponsored by then-Congressman Leon Panetta and others), calls for a spin-off bill to originate as a provision of a concurrent resolution on the budget. The bill would include certain elements of the resolution, such as the reconciliation instructions and any increase in the statutory limit on the public debt, and would be automatically forwarded to the President for his approval once the Congress completed final action on the resolution.

The spin-off bill approach has some similarities to the joint budget resolution. It would effectively require the President to be involved in developing the budget resolution, since his approval of the spin-off law would be needed to complete the budget process. As a result, however, it would also raise some of the same concerns addressed in my prepared statement that may come from formalizing a role for the President in the Congressional budget process. One difference is that the spin-off bill approach does not require the Congress to wait for a veto, or face the hurdle of attempting to override that veto, before the budget resolution levels become effective for other Congressional enforcement purposes.

3. In an effort to simplify the budget resolution, H.R. 853 moves the allocations and reconciliation instructions to specific congressional committees from the text of the resolution to the committee report accompanying the resolution. In your prepared statement you state that "such a change could also make the resolution less clear as a guide to policy and might raise questions about the status of reconciliation instructions to committees under House and Senate rules." Would you elaborate on this statement?

**Answer.** The budget resolution is a statement of priorities. If it excludes the functional categories of spending—even if those categories are included in the accompanying committee reports—the spending priorities underlying the resolution become less clear. The absence of functional breakdowns would probably be more significant during House and Senate floor action on the resolution. It would be difficult for Members to fashion amendments that can be distinguished from the version the committee reported.

When the Congress approves a budget resolution with reconciliation instructions, those instructions represent formal directives from the House and Senate to their respective committees. Shifting those instructions to the accompanying committee reports could diminish the status of the instructions in the legislative process. Committee report language generally does not carry the same formal authority as a directive voted on and approved by the Congress or enacted into law. In addition, a concurrent resolution can be used to alter the operation of the standing rules of the House or Senate. It is not clear that committee report language alone would be sufficient to change House or Senate rules.

4. With respect to the provisions contained in H.R. 853 regarding budgeting for

emergencies you state that the codification of an accepted definition of emergency spending would be an improvement over the current 'anything goes' situation. Do you think the definition of an emergency contained in H.R. 853 meets this acceptable standard?

**Answer.** The criteria for emergency spending should establish clear boundaries but should also accommodate the full range of likely emergency needs. The criteria in the bill, which are drawn from those the Office of Management and Budget has used informally since 1991, would probably accomplish those ends. Eliminating subjective judgment from the emergency spending process is neither possible nor desirable. However, statutory criteria would help to guide lawmakers' decisions.

5. H.R. 853 establishes a reserve fund in the budget resolution that cannot be less than the five-year rolling average of the amount previously spent on emergencies. Does CBO have this data available and is this data broken down into mandatory emergency spending and discretionary spending? Which would be larger?

**Answer.** CBO tracks spending designated as an emergency requirement for purposes of the Deficit Control Act and further divides that spending into discretionary and mandatory amounts, as appropriate. Most emergency spending is provided in annual appropriation acts and is discretionary.

The emergency amounts that would be used for the five-year average of emergency spending under H.R. 853 are likely to differ from the amounts designated as emergencies under the Deficit Control Act. Under the bill, CBO is directed to submit a report to the budget committees on enacted emergency spending for the previous five years that would be used to determine the five-year rolling average of emergency costs. The CBO report would follow guidelines prepared by the budget committees (after consulting with the affected legislative committees) that would be based on the statutory criteria for emergency spending set forth in the bill. What those guidelines would be, how they would be applied, and how much and what types of spending would be covered is unclear.

6. Your testimony mentioned the catch 22 between trying to encourage more authorization of spending while at the same time discouraging indefinite authorizations. In reference to the timetables for re-authorizations that Committees would establish, you suggested some form of staggered program review schedule. Would you please comment further on that suggestion?

Furthermore, I understand that CBO regularly compiles information on unauthorized programs. Would you explain how detailed this information is and to what extent and how often that information could be made available to committees?

**Answer.** If one goal of the bill's requirements for regular program review by committees is to ensure that permanent authorization laws are changed to periodic cycles, the Congress must be careful to avoid enacting laws that all expire at or about the same time. That would only exacerbate the problem of unauthorized appropriations and could overwhelm the legislative agenda in some years. Committees may wish to coordinate their program review schedules to avoid that problem.

CBO's report on unauthorized appropriations and expiring authorizations is issued in January of each year. It is required by section 202(e)(3) of the



Congressional Budget Act of 1974, as amended. The report summarizes the total amounts of unauthorized appropriations for the current year and the authorizations of appropriations that will expire by September 30 of that year. Appendixes to the report sort those data by appropriations subcommittee and by authorizing committee with jurisdiction over the expired program. They also list each public law with expiring authorizations.

The database used for this report is updated throughout the year as authorization and appropriation laws are enacted. Most of those laws tend to be enacted near the end of the Congressional session. Interim reports could be published periodically but are unlikely to provide much new information until the Congressional session ends in the fall.

Mr. GOSS. We want to thank you very much. No doubt we will be talking about this more.

We are joined by our colleagues from Minnesota and Iowa. This will be called panel one. It will be followed by Dr. Susan Irving, and she will be followed by panel two.

We welcome you here, gentlemen, and thank you for the positive contribution you have made to the process which has been ongoing now for a number of years, and we all know that it is appreciated and valued and part of the product we are dealing with.

The good news is that we are planning to go forward with legislation. The bad news is, for some at least, that is hardly a surprise. I think everybody has an opinion on whether it is doable, and that is what we are presenting at this point.

We welcome your views, your participation. Your prepared statements will be accepted for the record without objection, and your wisdom on top of that will be encouraged eagerly at this time by this meeting.

**STATEMENT OF HON. JIM NUSSLE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF IOWA**

Mr. NUSSLE. Mr. Chairman, thank you so much for conducting this hearing, and, similar to hearings before the Budget Committee on this subject, we are singing to the choir so to speak. Your leadership in moving this bill forward, your participation in crafting this bill as well as the rest of the Rules Committee in a bipartisan way, the bipartisan nature of the Budget Task Force and the Budget Committee in drafting this legislation, I think, has been part of the reason why we have been able to bring this bill to this point. So we truly appreciate your leadership.

I am sorry Ben Cardin is not here to start off with, because as you know, Mr. Chairman, he put in so much spadework in getting us to this particular point, Mr. Minge as well, and other members of our Budget Task Force that basically sat down with a couple of ideas and just for the record—and also it kind of goes to Mr. Linder's line of questioning as well. Let me just touch on a couple of things.

Number one, we decided that the process had to be bipartisan. There are certainly things that while David and I would agree on, not everybody in the Congress, not everybody from both parties would necessarily agree to do, and so we had to do a lot of listening, and we came up with a process that we believe is bipartisan, one that both parties can enjoy and support.

The second is we did not try and game outcome, substantive outcome of a particular issue. Just an example, the question that Mr. Linder was asking about the pay-go scorecard and on-budget surpluses and could they be used for tax cuts, the answer is yes, but there is a corollary answer that it could also be used for spending increases. So there is nothing in our bill that necessarily games the outcome that says because of the rules, something substantively must occur. It still allows for—and I think this is the beauty of our bill—it doesn't necessarily work against tax cuts any more than it works against increasing or decreasing spending. It still allows the

Congress to work its will and make a decision that is in the best interest of the country.

I think the biggest reason why we are here is, number one, we had the poster child of all reasons for budget reform come in 1998, and that was a broken process in which almost nobody from any particular party or from whatever your point of view could suggest that the process worked.

As the Task Force for Budget Reform sat down and tried to look over the last many years since the 1974 Budget Act, we could not find many years when the exact process was followed. If we could pick all of the years from 1974 on and try and take whatever worked and try and codify it, what year would we use? We found that in 1997, we had agreement with the President and the Congress up front early in the process. The aggregate decisions, the big numbers were chosen very early in the process, and the result was contentious. It obviously will be in an appropriation and tax process, but we knew the rest of the fight could be on detail, on discussion and majority rule, and on amendments and an open process that everybody could follow. So we tried to codify that in this particular bill.

The first thing we did was made this budget have the force of law with a joint resolution as opposed to our current process, which, as you know, is a concurrent resolution. What this suggests is that the President and the Congress have to be real early in the year. There are many Democrats who are frustrated with our current process because they thought that our current process is not real. We as Republicans are finding that it is going to be difficult to make that budget real. But no matter what perspective you bring to it, having the President and the Congress in January and February, and by the deadline of April 15 come up with an agreement that has the force of law is an important perspective to bring to this.

The second big area, I believe, is in the area of emergencies. We for the first time budget for emergencies on a rolling average, which sets aside a rainy day fund, which just about every family, big business, farm, many States in this country have as a way to deal with unforeseen, yet predictable emergencies that will occur this year. And we are currently and maybe possibly the poster child of emergency and supplemental problems with the process that we are currently in.

Finally, let me just suggest that what we are also doing is looking toward the future. We begin to budget toward the unfunded liabilities and other long-term obligations of this government. At the point in time where we find ourselves in the era of surpluses, when you take a new measure of your—not only your budget process, but those priorities that the country has to take a look at, and our unfunded liabilities which have never been managed, some of the insurance programs have never really been taken—as you know, we operate on a cash budgetary process as opposed to an accrual process, and it does not take into consideration some of those liabilities. So we begin the process of looking toward the future and how we can better manage budgetary decisions later on.

Now, is this the best process bill we can come forward with or at least the strongest one? As Mr. Linder is suggesting, will it solve

every single problem? No, it can't. When I explained this to kids back home in government classes because they study this, some of our more mature constituents in the district glaze over when you talk about budget reform, but kids are learning about this. This is an interesting subject to them because it shows the way that Congress works.

I tell them all we are doing in this bill is writing the rules on the back of the box that you play Monopoly on. The rules are the same every time you play the game. We are not deciding the outcome, or determining who is going to win the game, or who gets what property, or how many hotels you have on the game board. What we are saying is every time you turn that game box over, every time you look at the rules, they ought to make sense and make the process fair, and we believe that we have brought forward a bill that will do just that.

With that, I appreciate the time, and I will turn it over to my colleagues.

[The prepared statement of Mr. Nussle follows:]

**Statement of Congressman Jim Nussle (R-IA)**

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I want to thank Chairman Dreier for calling this important hearing on our bipartisan budget process reform bill (H.R. 853) and for allowing me and my good friend and colleague Representative Ben Cardin (D-MD) to testify. I also want to thank Chairman Goss of the Rules Committee's Subcommittee on Legislative and Budget Process for his leadership and hard work in the development of H.R. 853. As you know, Chairman Goss did fine work as Co-Chairman of the joint budget process reform task force formed between our committees.

Before I begin my testimony, I would be remiss if I did not thank my Chairman, Chairman John Kasich, for his leadership and assistance in helping to move forward with budget process reform legislation. I also want to thank Representatives Minge (D-MN), Sununu (R-NH) and Radanovich (R-CA) for the important roles they have played with H.R. 853.

In February of 1998, Chairman Kasich appointed a bipartisan task force on budget process reform to address such issues as the nature and structure of the budget resolution, the budgetary treatment of emergencies, budgeting for contingent liabilities, and baselines and budgetary projections. Chairman Kasich deserves much of the credit for this bill as he urged me to work with the Democrats on the Task Force and gave me the necessary support at critical junctures in the process to produce a bill (H.R. 4837) before the end of the 105th Congress.

Going into this process, we all knew that congressional budgeting practices could be improved. We also knew the Congressional Budget Act of 1974 needed to be examined with an eye towards an era of balanced budgets and "surplus" revenues. What we did not envision, however, were the difficulties experienced with the budget resolution for fiscal year 1999 or the manner in which the final spending bills were cobbled together.

Our task force held a series of topical hearings on budget process reform in the spring of 1998. We heard a number of very good suggestions and ideas from outside experts in budget policy, such as the distinguished former Representative Tim Penny who co-chairs the Committee for a Responsible Federal Budget; Dr. James Lee Witt, Director of the Federal Emergency Management Agency (FEMA); Allen Schick, Visiting Fellow, Brookings Institution; Rudolph Penner, the former director of the Congressional Budget Office; and Susan Irving, the Director of Budget Issues of the General Accounting Office. Our task force also heard testimony from nine of our colleagues in the House who have a long-standing interest in budget process

reform.

During the summer and early fall we began drafting legislation based on the lessons learned from our hearings. We worked in a deliberate and bipartisan manner to craft this legislation over a period of almost three months. As a result of our efforts, we were able to secure the support of a majority of the members of the task force on both sides of the aisle. We also drew the attention of Representatives who do not serve on the Budget Committee and won the support of respected Members such as Representative Stenholm (D-TX), Representative Barton (R-TX) and Representative Castle (R-DE).

I would also like to recognize the contributions of the many talented staff members who have logged numerous hours in this process. Jim Bates of the Budget Committee Majority Staff as well as Richard Kogan of the Budget Committee Minority staff proved to be valuable resources and reliable counselors in this process. Additionally, David Koshgarian of Representative Cardin's staff and Rich Meade of my staff were also instrumental in the development of this legislation.

Unfortunately, the fruit of our labor could not be harvested during the hectic closing days of the 105th Congress. Since we had crafted our bill in a bipartisan manner, we did not want it to become the object of a partisan attack from either side of the aisle. We've updated and made technical changes to our bill and reintroduced it in this Congress as H.R. 853.

Our bill is based on the assumption that the following fundamental principles should be used while developing a new budget process. Congress should adopt and conduct a budget process that:

1. gives the budget the force of law;
2. budgets for emergencies;
3. discloses the unfunded liabilities of Federal insurance programs;
4. strengthens the enforcement of budgetary decisions;
5. mitigates the bias in the budget process towards higher spending;
6. displays the unfunded liabilities of Federal insurance programs;
7. prevents government shutdowns; and
8. increases budgetary flexibility when there is an on-budget surplus.

The following is an outline of the major provisions of the bill.

#### **Joint Budget Resolution**

Perhaps the most important element of the Comprehensive Budget Process Reform Act is the conversion of the existing concurrent resolution into a joint budget resolution which would have the force of law when signed by the President. Under the current budget process, Congress and the President are required to agree on individual tax and spending bills but not the overall framework of the budget. Each year the President presents a detailed, programmatic budget and the Congress passes a concurrent resolution that establishes a common Congressional framework for the consideration of

subsequent tax and spending bills. The only way that the President can affect total spending and revenue levels is by vetoing individual bills. Consequently, the budget process bogs down as the President may reject individual bills because he does not concur with the overall levels on which they are based.

This dynamic was clearly in play in the 104th Congress when the President repeatedly vetoed appropriations bills in part because they were based on an overall level of discretionary spending that he found unacceptable. Finally in 1997, the Congress and the President committed to a common budgetary framework in a Memorandum of Understanding between the Congress and the President. The MOU essentially served as a joint budget resolution establishing the overall parameters for subsequent tax and spending legislation. In fact, Congress and the President have turned to such MOU's each time there has been a major budget agreement and the Congress and the President were controlled by different political parties.

Our bill was developed with the hope that we can regularly repeat the great cooperation between Congress and the President that led to the historic Balanced Budget Act of 1997. That process worked because Congress and President Clinton agreed to basic principles and a framework at the beginning of the budget negotiations process, and weren't forced to negotiate under pressure of a deadline at the end of the budget process.

If the President signs the joint budget resolution, Congress would move tax and spending bills, which would be governed by the spending limits established in the joint budget resolution. The President would still sign or veto each spending bill as it passed Congress. If the President refused to sign the joint budget resolution, Congress could quickly pass a concurrent budget resolution and operate in a manner similar to the current process.

In order to focus initial negotiations on the broad framework of the budget, the Comprehensive Budget Process Reform Act would restructure the budget resolution. The bill replaces the 20 functional categories of spending in the budget resolution with seven categories of budget aggregates: defense discretionary, non-defense discretionary, total discretionary, mandatory spending, revenue, debt, and a reserve fund for emergencies. The budget resolution would become a device for reaching an agreement on overall spending and revenue levels. Policy and distributional issues would be settled in subsequent negotiations over individual tax and spending bills.

#### **Reserve Fund for Emergencies**

Another key element of the Comprehensive Budget Process Reform Act is its reform of the treatment of emergency spending. In recent years, emergency spending has increased dramatically, primarily as a consequence of devastating events such as the Northridge earthquake and Hurricane Hugo. However, higher emergency spending has also been driven in part by the fact that emergency spending does not count against the statutory spending caps under current budgetary rules, making it essentially "free" money.

As was seen at the end of the last Congress in the Omnibus Appropriations Act, emergency spending is basically defined as whatever the President and Congress say it is. The Comprehensive Budget Process Reform Act sets forth clear, concise criteria as to what constitutes an emergency. These criteria, which are based upon the OMB definition of emergency spending adopted following the Gulf War, are that the spending must be for the prevention or mitigation of, or response to, loss of life or property, or a threat to national

security; and is unanticipated. Unanticipated means that the situation is sudden, urgent, unforeseen, and temporary.

The more concise definition of emergency included in the Comprehensive Budget Process Reform Act should help curb some of the more flagrant examples of abuse. For example, while I agree with those who contend that the Year 2000 computer problem (Y2K) is a serious issue, it would not constitute an emergency under the definition included in this bill. Nor should Y2K be considered an emergency, we've known about the challenges the year 2000 will present for a number of years.

The bipartisan Comprehensive Budget Process Reform Act would also reduce the incentives to mischaracterize spending as emergency spending by creating a reserve fund for emergency aid, and reserve that money exclusively for emergencies. By contrast, under current law there is no limit to how much money can be spent on emergencies. The bill would require Congress and the President to set aside an amount equal to the five-year historical average spending for emergencies. That money could not be spent unless the situation in question meets the criteria of emergency defined in the bill.

I believe there is much to commend this approach. First of all, it provides a reasonable assurance that emergency spending will go to legitimate emergencies. Second, it preserves Congress's power over the purse because it is the Congress that determines whether a legitimate emergency exists. Third, it could relieve the Congress of the time-consuming task of finding offsets for individual emergencies because the reserve would come out of the caps. Fourth, it is based on a tried and tested mechanism for augmenting the budget for bills that provide funds for specified purposes. Since the enactment of the Budget Enforcement Act in 1990, the Chairmen of the Budget Committees have adjusted committees' allocations for such factors as continuing disability reviews, arrearages, and land acquisitions. Finally, the beauty of the reserve fund concept is that if we set aside more money for disasters than is required, that amount simply increases the surplus, because the money actually never was appropriated.

#### **Accountability for Entitlement Spending**

Our bill would establish several procedures to curb the proliferation of new entitlement programs. Entitlements provide direct spending because, once they are authorized, the spending occurs automatically unless the underlying law is amended or repealed. The funding levels for these programs are determined by the number of eligible participants, the eligibility requirements and the benefit levels in the underlying law.

Despite measures in the 1974 Budget Act designed to curb so called non-controllable spending, the number of new entitlement programs has dramatically increased. According to the General Accounting Office, there were 145 more mandatory programs in 1996 than there were 10 years earlier.

The Comprehensive Budget Process Reform Act requires that any proposal for new entitlement spending, whether included in the President's budget or Congressional bills, include a justification for not subjecting the spending to annual appropriations. This will encourage those proposing new entitlement spending to at least take closer look at the programs and determine whether they really need to be entitlements.

This bill also allows Members to offer amendments to subject proposed



entitlement programs to annual appropriations. It limits the ability of the House to waive this right and makes any such amendment germane to the bill. To facilitate the conversion of entitlements into discretionary programs, the bill holds the Appropriations Committee harmless for new discretionary spending that is offset by designated reductions in direct spending.

#### **Sunset and Expanded Oversight**

The bill includes a series of small but enforceable steps towards requiring all committees to systematically re-authorize all Federal spending programs. I take as an operating premise that no program, however important, should be immune from Congressional oversight.

The bill requires all committees to submit a plan for re-authorizing all programs, both mandatory and discretionary, at least once every 10 years. The House is prohibited from considering the expense resolution of any committee that fails to submit a reauthorization plan.

The bill prohibits the consideration in the House of any bill that creates a new program that is not sunset within 10 years. Any bill that authorizes a program for more than 10 years would be subject to a point of order. Significantly, this requirement would only apply to new programs, and neither new nor existing programs would automatically sunset if they were authorized for a shorter period.

#### **Automatic Continuing Resolution**

We take the bold step of agreeing to an automatic continuing resolution in order to prevent future government shutdowns. Our bill would provide for an automatic interim appropriation for any program, project or activity for which an appropriation bill is not enacted by the beginning of the fiscal year. Funding would continue at the prior year's level indefinitely, or until Congress and the President are able to reach agreement on the appropriate spending levels.

I believe that an automatic CR will take away from both the President and Congress the incentive to refuse to negotiate in good faith on appropriation bills on the assumption that one side or the other will bear the wrath of the public for shutting down the Federal government.

#### **"Baseline" Budgeting**

The bill takes a small step towards changing the baseline mentality that contends that any attempt to slow down the growth in spending constitutes a cut. Drawing from a House-passed bill offered by Representatives Stenholm and Penny during the 103rd Congress, our bill requires that Presidential budget submissions, budget resolutions, appropriations reports, and cost estimates compare proposed spending and revenue levels with the actual spending levels of the prior year.

We also try to shed light on the sources of projected growth in entitlement spending which is expected to explode early in the next century. The bill requires both the Office of Management and Budget and the Congressional Budget Office to periodically report on such sources of projected growth in mandatory spending as inflation, changes in medical technologies, and program enrollment.

#### **Budget for Contingent Liabilities**

During the Task Force hearing and discussion with GAO, CBO, and OMB, it became clear that existing cash-based, short-term budgeting and accounting procedures do not capture the contingent liabilities and other long-term programmatic costs of Federal insurance programs. Accordingly, this bill provides for a shift to accrual budgeting for Federal insurance programs, as well as other measures intended to capture the medium-term costs of proposed legislation and the long-term budgetary implications of current and proposed budget priorities.

Currently, the budget shows the short-term cash flows for such Federal insurance programs as deposit, pension and political risk insurance. Frequently, the premiums paid into the insurance programs do not reflect the program's long term costs to the Federal government. Not surprisingly, policy makers have little incentive to take measures that would minimize the financial risk posed by these programs over the long term. There is a strong incentive for policy makers to embrace policies that provide short-term budgetary relief but exacerbate financial problems over the long run.

Building on the principles of credit reform for loans and loan guarantees, this bill requires OMB, CBO and Federal agencies to estimate the expected loss from Federal insurance programs instead of short term cash flows. Congress and the President would ultimately be required to budget each year for the expected losses from new and expanded insurance programs.

Additional changes are made in the budget process to capture other long-term costs that are not reflected the budget. Most importantly, it extends the horizon for the cost estimates of proposed legislation from five to ten fiscal years. Additionally, it requires OMB and CBO to periodically report on long-term budgetary trends under current law and as proposed by the President.

#### **“PAYGO” Requirements and the Surplus**

We were even able to find common ground on permitting the surplus to be used for tax cuts and other initiatives if the budget is in balance without counting Social Security surpluses. Under existing PAYGO requirements, tax and entitlement legislation must be offset by entitlement cuts or tax increases. Our bill permits tax cuts without offsets so long as the Federal government is running an on-budget surplus. Notwithstanding our agreement on this element of the bill, we may very well disagree on what the surplus should be used for whether further PAYGO reforms are in order.

#### **“Lock-Box” for Spending Cuts**

Our bill establishes procedures to lock in savings from floor amendments to increase the surplus. The provision is similar to lock box provisions that have passed the House with bipartisan majorities. Under the lock-box, both the caps and appropriate levels in the budget resolution are automatically reduced by the amount of a floor amendment that reduces an appropriation line-item. This mechanism effectively prevents the Appropriations Committee from reprogramming savings from floor amendments to other programs in the same or another subcommittee allocation.

Mr. GOSS. I am happy to welcome and acknowledge Mr. Cardin, who has joined us as part of this panel. His testimony is prepared and already accepted into the record.

You missed the accolades that we were heaping on the panel before you came in.

Mr. CARDIN. You can repeat those.

Mr. GOSS. We welcome you.

**STATEMENT OF HON. BEN CARDIN, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MARYLAND**

Mr. CARDIN. Thank you, Mr. Goss, for those kind comments, and I appreciate the opportunity to testify on our budget reform bill, and I thank the committee for holding early hearings on this subject, and hopefully we will be able to move some legislation during this session of Congress.

As Mr. Nussle pointed out, this process started with the Budget Committee looking last year at setting up a special task force to take a look at our budget process. Mr. Nussle chaired it. I was the Ranking Democrat on it, and we really looked at all of the proposals that Members of Congress had come in with. We worked on a very bipartisan way. There was a lot of give and take, a lot of compromises that were made in order to try to move legislation that could be enacted and become law.

I must tell you as a way of background, I started in the State legislature 32 years ago, and I served on the committee that had the State budget. I later became a chairman of the Ways and Means Committee and later speaker of the house and was speaker for 8 years.

When I came to Congress in 1987, I was appalled by the way that we used to deal with the Federal budget. My own experience in the State showed that there was a better way in which for us to handle the fiscal policy of our Nation.

I must tell you that the objectives that we looked at in the Budget Reform Task Force were several. First, in my view, I wanted to make the Congress a more effective entity in dealing with the fiscal policies of this country. I don't think we have much to say in this institution about the fiscal policies of the Nation. I think we have given too much to the executive branch because of our way that we are so disorganized in our consideration of the fiscal policy of this Nation. So many of our recommendations are aimed at making Congress a more effective entity, not whether it is controlled by Republicans or controlled by Democrats or split control, or whether the White House is of a different party than the Majority in Congress. We want to make this institution work better so that all of us who are elected can have more to say about the fiscal policies of the Nation.

That is one reason why we recommended a joint resolution signed by the President, so that we engage the President earlier. Under the current system when we have a disagreement, and we have one again this year with the White House, if we resolve that late in the process, the executive branch is going to have a lot more to say than the legislative branch on the fiscal policy of our Nation. We, as members of this institution voting in our committees and

voting on the floor, are going to have much less to say about an appropriation bill or an entitlement bill when that decision is made with the last vote of the session, where you have to vote for it or not in order to go home. That is not carrying out the will of the people that I represent. So a joint resolution is to engage the President earlier in the process so we can have a fiscal program that reflects the will of the people of this country.

I must tell you one of the changes that we made was to have what is known as a soft landing on the joint resolution. If we are unable to agree with the President, he vetoes the bill and we can't override the veto, rather than paralyzing Congress, we said, okay, we will go back and work on our legislation. So we are not trying to make Congress weaker, we are trying to make Congress stronger to give us an opportunity to work more effectively.

The automatic and continuing resolution is an acknowledgment that if we need a continuing resolution, we fail. We fail. We should pass our appropriations bills. The fact that we provide for automatic continuing resolutions, we are trying to take the politics out of a gridlock so it is more likely that we will get our appropriations bills done. If we know that there is an automatic CR, the likelihood of using it is more remote because the appropriators want to have their will. That is their career. They are not going to want a CR to become law. Knowing that the fall-back is an automatic CR, we take away penalizing our constituents, and we make it more likely that Congress, in fact, will succeed.

Our second major objective in addition to increasing the role of Congress is to work in a true bipartisan way to make this really a bipartisan product. Here I want to congratulate Mr. Nussle for the work that he has done. Mr. Nussle has kept us focused on a bipartisan product. He has taken a lot of lumps on the Republican side of the aisle in order to keep us together in a true bipartisan way. I really want to applaud him in those efforts because there are many times during that process where I know the pressure he received, and he stood up to it and said, no, we are going to continue with the commitment we made.

So first, we have limited the resolution to only deal with the general budget parameters and the extension of debt if it is required by the budget resolution. That is all the budget resolution can deal with.

Secondly, the CR is neutral. It doesn't increase or decrease. I know that there was a lot of pressure to have it as a reduction. That would have caused a partisan backlash, and we stuck true to keep the CR neutral at the current level.

Third, the current budget rules are applied to budget surpluses, as was interpreted by OMB. We decided not to take on any real change in the use of the surplus. That was extremely controversial last year when we talked about ways in which we could finance additional tax cuts or spending.

When we came up with that recommendation, the surpluses were nowhere near as large as they are currently being projected, both on and off-budget surpluses. I helped develop in our State what is known as spending affordability, and I think it might be worthwhile for us to look at what we can afford to spend on new spending or tax cuts as we look at large surpluses in the future, because

I think all of us want to make sure that those surpluses are real, and it would be very nice to reduce some debt while we are having a strong economy, and we may want to look at large surpluses in the future, how we achieve those surpluses and reduce debt at the same time.

We use the current budget rules on entitlement spending. There was a lot of pressure to change that particular issue, and we stuck true to our bipartisan commitment in that regard.

And then on emergency spending, we provided that we would use the same budget rules as relates to the budget caps on emergency spending until we adopt new budget spending caps.

And then the third point I want to mention, in addition to trying to improve the role of Congress in working in a bipartisan way, we want to make the process more fiscally accountable. There we adopted many changes. Many are technical, and I will not go through them, but I will answer any questions you might have.

On emergency spending, it is ridiculous, it is wrong, so we developed a way to use a five year average. Mr. Nussle explained it in the normal budget process to have a new definition, a true definition of what emergency spending is to bring the Budget Committee into that process and have some checks and balances on the way that we handle emergency spending. It is very timely considering the debate going on on the floor this week.

And then we developed some accrual accounting. I talk to my business leaders, and I tell them that the Federal Government is too small an entity to use accrual accounting. So we start down the path of doing true accounting, accrual accounting with insurance programs.

I think these reforms clearly move us in the right direction. They move to make this institution a stronger institution. They are truly bipartisan recommendations, and I am proud to be part of this effort.

Mr. Goss. Thank you, Mr. Cardin. Those are helpful.  
[The prepared statement of Mr. Cardin follows:]

**Statement of Hon. Benjamin Cardin (D-MD)**

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Chairman Dreier, Congressman Moakley, I am pleased to have the opportunity to appear before you this morning to testify on the reform of the congressional budget process.

It is certainly time for a review of the process by which we in Congress, as well as the executive branch, make budget decisions. It has been a quarter century since the creation of the congressional budget process, including the Budget Committees, the Congressional Budget Office, and the existence of a budget resolution.

We began this process in the House more than one year ago when Chairman Kasich created the Task Force on the Budget Process. I am particularly encouraged by the bipartisan approach which marked the establishment and deliberations of the task force. While we have strong partisan differences regarding the substance of budget policy, I believe we must seek to keep the budget process free of partisan biases. There is nothing inherently Democratic or Republican, liberal or conservative about supporting a budget process that improves accountability and gives the American people an accurate and clear picture of the federal budget. Six months of hearings on a wide range of issues was followed by bipartisan consultations and discussion. As a result of those efforts, Congressman Nussle and I introduced the Comprehensive Budget Process Reform Act, H.R. 835.

The bill Rep. Nussle and I introduced proposes a number of important reforms. I would like to highlight a few of them for you.

We stand at an interesting time in the evolution of the congressional budget process. On one hand, our fiscal outlook is stronger than it has been in decades. When we contemplate the prospect of trillions of dollars of budget **surpluses** over the coming years, on the heels of the largest deficits in our country's history, there is reason for satisfaction over the direction of fiscal policy.

On the other hand, we have seen troubling failures of the congressional budget process. In the past few years we have had government shutdowns, gridlock between the executive and legislative branches, and the breakdown of the process in Congress. These events demand a careful review to determine how we can make it work more efficiently.

The legislation we have introduced offers protections against future recurrences of the problems that have arisen under the existing system. One such reform is that we propose that the concurrent resolution on the budget be transformed

into a joint resolution, requiring the signature of the President.

This change would bring the President into the budget process earlier in the year. Under the current system, after submitting a budget proposal in February, the president withdraws from the process. He does not fully engage until the final negotiations on budget reconciliation legislation and the appropriations bills in the days leading up to the start of the new fiscal year. The result, as we have seen too often, is the reality or the threat of government shutdown.

This proposal would require Congress and the President to resolve their differences much earlier in the legislative year, thereby helping to avoid crisis as the end of the fiscal year approaches. The potential advantage of this approach is again in evidence in the current budget cycle. Congress has adopted a budget resolution by narrow partisan margins. The policies envisioned in the budget cannot be achieved without the President's signature on the appropriations bills or the tax and mandatory spending changes. By bringing the President into the process earlier, we would avoid last-minute deals that frequently meet with the strong disapproval of the American people.

Another potential advantage is that by making the budget resolution a joint resolution, which has the force of law, we could also deal with any required increases or extensions of the debt ceiling in the budget resolution. Extensions of the debt ceiling are direct consequences of the fiscal policies adopted in the budget resolution. Common sense dictates that we should, in passing a budget resolution, recognize the consequences that flow from it.

An additional provision of this legislation that is designed to guard against the uncertainty and instability of future government shutdowns would provide for an automatic continuing resolution. This proposal addresses the situation in which any of the annual appropriations bills has not been enacted by the start of the fiscal year. It provides that in that circumstance, the agencies covered by the appropriation will receive the same level of funding they received in the previous year, until such time as the regular appropriation bill is enacted.

It is important to point out that this provision does not prejudice the deliberations of the Congress. An automatic CR provision can only work if it is neutral in effect. That is, it should not be a tool that either increases or reduces spending for the affected agencies.

In addition to these broad changes in the budget process, the bill also addresses a number of more discreet issues. We propose an overhaul of the process by which we fund emergencies. For too long, the federal response to emergencies has been funded almost entirely through supplemental appropriations. We should bring basic planning principles to bear on this area of federal spending.

We will always have occasions that will demand supplemental appropriations to respond to natural disasters and other emergencies. But we can do a much better job of including emergency funding in the regular budgetary process. We propose to do that by using a rolling five year average of emergency spending. Importantly, this change would not affect the current caps.

In addition, we provide, for the first time, a definition of emergency. We have all been troubled by the inclusion of non-emergency items in emergency supplemental bills. As recently as last week, we passed an 'emergency' spending measure that included funding for many priorities which would not satisfy the criteria established for emergencies. By defining the term, we can help limit the types of spending that can be included in these bills.

I would like to call special attention to one of the more far-reaching and innovative proposals in our bill. As you know, the federal government, unlike virtually every other large organization in this country, reports all its outlays and receipts on a cash basis. While this approach accurately portrays some aspects of the budget, it also creates significant inefficiencies and distortions in the policy decisions we make.

Our bill proposes the application of accrual accounting principles to certain federal insurance programs. It simply makes no sense for us to continue to ignore the long-term budget consequences of our actions. When we issue a flood insurance policy, we have a reasonable expectation of the costs that will ultimately be imposed on the treasury. We should enter that liability on our books then, recognizing that the premiums paid on the policy are obligated for the purpose of paying future claims, rather than providing a source of easy money for making that year's bottom line look good.

There are several other important budget reform provisions in the bill which address the sensitive issues of enforcement and accountability. They are the result of extended give-and-take, and I look forward to further discussions as we consider this legislation.

The fundamental process by which we budget has benefitted by the expanded capacity and involvement of the Congress. The legislation Rep. Nussle and I have introduced will further improve coordination between the legislative and executive branches. It will help reduce the threat that a breakdown in the budget process leads to a shutdown of the government. It will improve the management and accountability of federal resources.

I appreciate the opportunity to appear before you today, and I would welcome any questions you might have.



Mr. GOSS. Mr. Minge.

**STATEMENT OF HON. DAVID MINGE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MINNESOTA**

Mr. MINGE. I feel all I have to do is sit here between two giants in the process. I have a statement which has been circulated. My statement attempted to pick up on two or three things which I felt that they would neglect to mention. It turns out that they have mentioned everything.

The only comment I would like to make is that this product in a way, I believe, represents the best of the types of efforts that we can produce in Congress.

I have heard the statement quite often, don't let the best be the enemy of the good, and I would say here let's not let the best be the enemy of the best from somebody else's group's perspective. We really have a product which I think is responsible and credible. Yes, as you indicated earlier, Mr. Chairman, there are things that each of us would do differently, I am sure, in some detail if we were the one solely response for drafting this. I am pleased to be included in this effort and to be associated with it. I look forward to its prompt consideration by this committee and on the floor.

[The prepared statement of Mr. Minge follows:]

**Statement of Congressman David Minge (D-MN)**

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Mr. Chairman and Members of the Committee:

Thank you for allowing me to testify today on H.R. 853. I want to commend my colleagues, Mr. Nussle and Mr. Cardin, for their efforts in crafting this bill, and wish to commend the Committee for holding hearings on this important legislation.

I would like to begin my remarks today by reaffirming that this bill is truly a product of bipartisanship. While there are items in the bill that I might change (and I am sure my colleagues can say the same) if offering the bill myself, this is a bill that deserves support, as well as swift passage by the House of Representatives.

The bill has many strengths, as my colleagues have outlined in their testimony. Rather than duplicate their statements, I would like to comment on a few provisions that I find particularly important. The first that I would like to highlight is the emergency spending provision.

Unfortunately, the current emergency designation has become a way for Congress to skirt the discretionary caps and disregard the Pay-As-You-Go (PAY-Go) Rules. These important enforcement tools, along with a strong economy, have put a federal budget surplus within reach. H.R. 853 offers a needed solution to budget-busting supplemental appropriations bills that undermine budget discipline. While much of the recent emergency appropriations bills have gone to fund legitimate emergencies, Congress is often tempted to throw in spending that ought to be allocated in regular appropriations bills. By creating an emergency reserve account, H.R. 863 would force Congress to stop misusing the emergency spending designation by using a cap based on the five-year rolling average for emergency spending.

Another important component of H.R. 853 is the shift to "accrual" accounting for certain federal insurance programs. While some Administration officials have expressed mild reservations about the implementation of this provision, I believe it is an important step in the right direction. Current estimates about the liabilities of these programs are unrealistic, and this is a needed change to the budget process. I believe it is far better to use an imprecise estimate of the right concept than a solid estimate of the wrong one.

I will admit that I am a bit concerned about the relaxation of the PAY-Go Rules with regard to on-budget surpluses under the bill. I appreciate the need for tax cuts. Indeed, the Blue Dog budget which I helped write outlined a plan that would have required some loosening of the PAY-Go Rules. It would be my preference, however, to retain this budget enforcement provision for half of the on-budget surpluses, relaxing the PAY-Go Rules to use only half of the on-budget surplus for tax cuts or spending, with the other half used to reduce the debt. But I recognize—and want to commend the Chairman and Ranking Member of the Task Force for—the spirit of compromise and bipartisanship that went into this bill. I am not willing to temper my support for the bill as a result of my doubts about this one provision, because I am certain that most of the bill's cosponsors have made modest concessions on ideas that are equally important to them. I believe this productive climate has resulted in a solid, meaningful measure that deserves wide support.

In closing, I would like to again thank the Committee for its consideration of the bill, and thank Congressman Goss for his leadership on this legislation in the past months. I look forward to working with you all in the future.

Mr. GOSS. I thank you all. I am sorry that we don't have a fuller committee to see the bipartisan and professional quality of the testimony and work which has been done on this. A lot of people have a commitment to it and an understanding of the subject. It is a refreshing moment.

There are many points of view on this process. We are hearing them on our side of the aisle and on the other side of the aisle, and as recently as opening statements this morning we had a discussion about whether leaving well enough alone is a better idea than plunging forward.

Obviously the reason that we are not leaving well enough alone is because we do not think it is very good. We all went through that last year and decided that—in fact, we didn't decide, we promised, we pledged to go forward. We filed the bill last year symbolically before the close of the 105th in order to ensure our colleagues and the American people that we were going to try and do better, and I consider this is moving forward on that promise, and it would not be happening were it not for you gentlemen and the work that you are doing.

I have a couple of questions, and we are going to hear some testimony, and these are by way of alerting you to the kinds of things that we are hearing here. I understand that the testimony that we are going to be hearing a little later in the two days of this, is that this measure is going to lead to increased delays in consideration of the appropriations bills, undue pressure on the discretionary process of the Federal budget and have detrimental impacts on Social Security. In fact, we have already heard some of those statements in some of the opening remarks. These are the types of things that we are going to be talking about. Clearly these will be debate-type items. If any of you wish to comment on any of them now, your comments are welcome. We can discuss them when we get this legislation to the floor. I am not concerned. I think we have a good product.

Mr. CARDIN. We cannot do any worse in a delay in considering the appropriations bills. In the twelve years that I have been here, I can't tell you how many times we have passed appropriations bills in a very disorganized way at the end of a session. Sometimes we have lumped them into one final vote, as we did last year. It is the wrong way. The current way is the wrong way to consider it.

Yes, we have had a couple orderly years in my twelve, but that has been the exception rather than the rule. What we have proposed is a way that we can have an orderly process between the executive and legislative branch. It may work, and it may not. It is possible that we may run into differences that we cannot resolve early.

I think it is much more likely that we will have an orderly process with this bill. You can't guarantee that under any procedure if you have a sharp difference between the executive and legislative branches of government, but I think the chance of success are much greater.

On the issue of Social Security, we preserve the current budget rules on surpluses. Let me repeat that. We preserve the current

budget rules on surpluses. OMB met with us early and told us what we were doing was their interpretation of the current budget rules. I understand that they may have changed some of their views because budget surpluses are a lot larger than we anticipated, but there was a lot of pressure on us to change the budget rules to make it easier for a tax cut and using all surpluses. We didn't do that.

So I think those criticisms are unfair, and I regret that people that I admire greatly have raised those issues because I think it is an effort to not have us discuss the merits of these proposals.

Mr. GOSS. Any further comments?

Mr. NUSSLE. I would not be surprised if there are those out there who want to, for their own particular advantage substantively, I am not talking partisan, because they want to be able to accomplish something for themselves, their committee, their own jurisdiction, to try and stick something in here to gain the outcome, skew it toward one direction or the other, and that is exactly what we tried to avoid. And this is more a comment toward the amendment process than anything else. And I don't know how the Rules Committee will look on this kind of a bill toward the amendment process, but whether it is an open rule or whether it is—however it might be described, I am going to argue that anybody who wants to argue on technicalities—in other words, the increased delay argument is one that is a valid discussion. Let's have a discussion on that, concern about how long the process will take. But to say substantively it is going to skew the outcome for Social Security or Medicare or the Aviation Trust Fund or this trust fund or that trust fund or certain tax cuts, I think, would be a mistake.

Those who have looked at this can find fault in many areas. One area that has been brought up is the whole question of the joint resolution. There are those who are suggesting that this gives too much power to the President. It is a legitimate discussion point that we need to have.

But to suggest that it skews the outcome of a substantive issue before the House today I think would be a mistake, and I think those experts that have looked at the bill would agree that it really doesn't game the system.

You may disagree with the way that Congress is approaching this, and you may disagree with the way—the balance between the Congress and the President in this instance, but to suggest that it skews a substantive issue before the House would be a mistake. There are very few who can hold that argument.

Mr. MINGE. I would simply like to point out that on page 17, beginning at line 15 of the bill, there is a point of order that can be raised by the Senate when the Senate considers the concurrent resolution, which would compromise the Social Security program. For those that would like to raise the specter of the Social Security program being at risk here, I think this is just one sort of modest example of how this bill tends to protect Social Security. We should not let that type of red herring be blown out of—made of whole cloth into something that someone would consider an issue. It is not.

Mr. GOSS. I appreciate your bringing that up. I think it is current law as well, as you just basically referred to it.

The point of my alerting you is that we all can have a budget discussion this year or any time soon without talking about Social Security, or about anything else, not just Social Security, it seems. So I think we need to be prepared to answer factually what the provisions are; and I think obviously the quality of the testimony where you have acknowledged the depth of this and understanding and fairness among your colleagues that this is not going to be that kind of a problem.

But it does lead to the question of are we doing the right thing with bipartisan support on both sides? We are proceeding to move this legislation on that assumption, and we hope that is true. I have no reason to believe otherwise, and obviously those are guesses that we all make in judgments on legislation.

We want this very much to be a bipartisan effort; we are emphasizing that. The bipartisan nature of the effort that has gone so far is remarkable, exemplary, I would say, for this institution.

Mr. LINDER.

Mr. LINDER. I agree that the later we finish the work, the more power the executive branch has in getting its way. By requiring the executive branch's signature on the budget early on, a lack of agreement between the legislative and executive branches could presently delay this game and just force everything late in the season.

Mr. CARDIN. Well, understand that the resolution will contain just very, very broad instructions, broader than our current resolution, so that if the President vetoes it, he is vetoing it on a very specific issue; that is, that there is too much spending or not enough spending, too many tax cuts or not enough tax cuts. It is going to be on a very broad matter.

If he vetoes it, the Congress has basically one of two choices. It can work with the President, as we hoped it would, to resolve this issue so that we can have appropriations bills that are going to be signed into law that don't have to be modified later, that we are going to have a tax bill or an entitlement bill that will be signed into law; or will be fighting over the policy, not the dollar amounts, and that we can have a much more intelligent debate in Congress, a more sincere debate, one which Members are going to spend a lot more time on because they know it is going to become real.

So I think it makes the whole process work a lot better.

But let us say, if we just have a President and Congress that are out of step with each other and don't want to work together for whatever reasons, their political agenda, then we are basically stuck with the current system; we are not in any worse shape. Congress goes on and does its work as it does today. There is no delay. We just move forward, as we would under the current budget rules.

And then, of course, in the fall of the year, we will have a problem, but we hope that is not the case. We set up a process where we can avoid it, but we would know right up front that there is a disagreement between the President and the Congress on the size of spending or on the amount of money in entitlements or taxes.

Mr. LINDER. Are you all considering at any point a capital budget as well as an income and outgo budget?

Mr. MINGE. I think that was discussed. I should really let Jim speak to this, but my—just speaking for myself, one of the concerns

was that the array of things that could be taken up and the impact it would have on the appropriations process and the budget process here was vast, and that it made more sense to do something that we could realistically hope could be passed by this institution than the more ambitious reform efforts which, at least in my short experience here, I have seen flounder and just never carried forward.

Mr. NUSSLE. I think that is a good answer. It does lead me to one thing that I did neglect, and that is, you know, there are many who have given us—and that includes the Rules Committee—credit for coming up with this, and I would just suggest that the first thing all of us did was research and talk to all of the other giants in this institution that have been concerned about budget reform in the past, including those that have written legislation on capital budgets and others; and then we gleaned from all of those people and their bills the best, or what we consider to be the best that they came up with.

So, yes, this is an original document that we came up with, but as happens around here, if you see something good, you steal it and you make it your own and that is what we have done here. We have taken—we stand on the shoulders of people who are no longer in the institution, that have been waiting for the day to try and make some positive changes; and so, yes, we considered it, it was part of the hearings.

However, we decided that—at the end, as David said, that we wanted something that seemed a little bit too drastic. This was something that could gain the kind of support that we thought was necessary to move it not only through the House, but when we were holding these hearings, the Senate. The other body didn't seem to be as interested in reform, and as you know, earlier this year they made the commitment to budget process reform as well. So the realistic chance became much more realistic, much more prevalent than it had been while we were writing the bill.

Mr. LINDER. Thank you.

Mr. GOSS. Mr. Hastings.

Mr. HASTINGS. I want to follow up on something that John Linder mentioned regarding the potential for slowing the process down, and it could be the difference of the markup between the Congress, the House and the Senate; it is not confined to the presidency.

Ben, at least you suggested that one of the solutions to that is having a budget resolution that is very broad, which I agree, that would be part of the solution. What sort of incentives do you have in the bill to ensure that it stays broad, or is it just political will that you would have to go through to make that happen?

Mr. CARDIN. The budget law, if this were to become law, but the resolution is limited to basically two items. One is the overall—and I think Jim has a chart that shows the difference.

Mr. NUSSLE. I will just show you the difference between the two budgets. This will be the—this is the current budget bill and the way we currently do it. This will be the new one.

Mr. HASTINGS. Okay.

Mr. NUSSLE. We have this in a handout that we give you, so you don't have to look at the chart. I apologize; there is no place to put this so everyone can see it.

Mr. GOSS. We would like the record to include the handout as well.

Mr. NUSSLE. We will do that.

Mr. CARDIN. So the point is it is less likely that there would be a difference between the House and the Senate in bringing a budget resolution forward than under the current rules. It is less likely you are going to have a disagreement between the White House and Congress on a budget resolution. It still can happen, but it is less likely. And in the event that you don't reach agreements, you are in no worse shape than you are today.

What we are trying to do is have a process where we do reach an agreement, and we think it is more likely that we will have these issues resolved early. There is enough to fight over in the budget itself. I mean, I would love to have a good debate on some of the specifics on the appropriation bills where not the dollar amounts, but how we actually spend money—and that would be, I think, a better use of our time than going through a process where most people say, well, we have to put this in for leverage for the final negotiations that will take place in October—September, October between the President and the Congress.

Mr. HASTINGS. The only reason I say that, and I recall having seen this before, but I can see down the line one entity or the other that is involved in this could then have some sort of report language that that line item will have—I guess my concern is, I can see how this can steamroll, and I just wonder if you discussed that and if there is any way that perhaps you could reduce those things, other than just political will.

Mr. CARDIN. I think it is a very good point. Remember, the President in signing the resolution would only be signing what is in the resolution. The President would be fully within his right to say, look, I am signing this resolution because I agree with what is in it, but I understand some of the assumptions that the Budget Committee put in their report that I can tell you would be very difficult for me ultimately in agreeing to a bill that carried out that policy.

Mr. HASTINGS. Suggests that the House or the Senate had that report language rather than the President.

Mr. CARDIN. Right.

Mr. HASTINGS. I just bring this up—

Mr. CARDIN. Remember, we have report language right now in appropriations bills that do not have the force and effect of law, so that is a current prerogative of Congress, and it is an effective way that sometimes we can get different types of administrators to respond.

Mr. HASTINGS. Thank you.

Mr. NUSSLE. This happened in 1997 with the memorandum of agreement between the Congress and the President. Again, the aggregate numbers, similar to the ones that I just showed you, which will be part of the new budget resolution, were agreed to, but none of the details were agreed to. In fact, many, on both sides, were able to read whatever they wanted into that, into that final agreement and say, well, it means we can have this much for tax relief; well, it really means we can do this in spending.

What happened was, the normal process then took hold and eventually we did reach a successful conclusion. But at least the big discussion, the big aggregate numbers were done ahead of time.

One other observation I would just make as a member of the Budget Committee and someone who very much enjoys my membership on the Budget Committee, after April 15th, we are done, and from April 15th until the next time the President submits the budget, we don't have all that much to do on the Budget Committee; and thankfully, we all have other committee assignments, to do that work.

I believe that if you pass this kind of an approach, as you know, OMB and CBO continue the budgeting process throughout the rest of the year without Members involved. All of a sudden, almost as a surprise and in a very political document, both the President and the Congress submit their budgets then the next year, without any discussion. I mean, unless there is something to force that discussion, it is just all of a sudden some mysterious political document that comes down, both sides can harangue the other, both can say it is dead on arrival, and then the process really begins.

If you force a bill that needs to be signed in order for it to be effective, you will see what happened in 1997 where, at that time, Chairman Kasich and OMB and the chief of staff sat down—I believe, if I am not mistaken, as early as November; and this was without any mandate or law to force that—sat down in November and December of the year prior—of 1996 to begin working out the details of that memorandum.

And I believe that process you will see begin April 15th; as soon as that next year's budget passes, you have to start the process on the next budget. It begins for everyone else; it should for the Budget Committee and for the Congress as well.

Mr. HASTINGS. Good. I thank you for your comments on that. I obviously hope that that is followed in that broadest sense; I think that is the key.

What you mentioned, Jim, leads to another question that I have, and that is the whole process of oversight of government programs. It seems to me that we don't do a very good job. When you look at the budget process, like you say, the Budget Committee works hard until April 15th and then they exhaust it, they go out and we pass it, and then the appropriators do their job; and finally in October we are totally exhausted, we go home, and we come back in January and start the process all over again, and no oversight, really good oversight, exists.

To me, one of the solutions to do that would be a biennial budget. Did you discuss that at all? Where are you with those discussions? Is that just one of those—go ahead.

Mr. NUSSLE. We did discuss it. It was—we received testimony on that, and to be quite honest, we decided that we weren't going to pursue a biennial budget. There is nothing in here that would suggest that you couldn't make this a two year process as opposed to a one year process, an annual process.

I would agree with you, it may in some instances give more opportunity for oversight. The converse to that and the reason we didn't put it in is we felt that it was more of a Senate—it was something the Senate was obviously very interested in from Chair-



man Domenici's standpoint; and from a House perspective, when you have only a two year term, and as a result, get only one shot at a budget which the next day is out of—not out of balance, but almost out of date, certainly by the rest of the year, whether it is through emergencies or through changes in our economy, can be out of date—we didn't want to automatically give it a two year stamp of approval without having some opportunity to make changes in priorities throughout the rest of our term in the next year.

So I think for those in the Senate that have a six year perspective, it is probably a little bit more attractive than for those of us who have a two year perspective.

I don't disagree that long-term planning can be a part of that. That is why we adopted a ten year approach to the numbers, similar to the Senate, so that we can start taking a more forward look as well as adopting the provisions for accrual accounting and beginning to test our unfunded liabilities.

I think that will help in answering your question, but we didn't—we decided not to put the two year in here until we had a chance to meet with the Senate and discuss that.

Mr. MINGE. The only other comment I would make is, much like the capital budget, I have heard many people on the Appropriations Committee say, we don't like this, we don't like that; and the next thing you know, you have the full committee organizing on a bipartisan basis to oppose something.

I think we already faced the threat that some of the troops within Congress on a bipartisan basis, the committees are going to—it is sort of a delicate balance between what is politically possible to pass within the institution and what would be best for us to do. Where that balance is struck each time is sort of a tough call. But I would certainly compliment both Jim and Ben for trying to stick within the bounds of what is realistic.

Mr. CARDIN. Let me say that I have no objections to a biennial budget, but I think in a legislature that meets every year, it is unlikely that we would do a biennial budget even if we put it into law. I would think the Appropriations Committee would probably put out a product every year regardless of what we try to do with a two year budget. So, as a pragmatic approach, I think it is one that is not a high priority in what we are trying to get done, because I am not sure it would be enforced.

Mr. HASTINGS. I appreciate the fact that the Senate has taken a pretty strong position on this. I am one that happens to believe that it is also good policy, and I can see the second year for Congress, however, having a number of supplementals.

I mean, we have annual budgets. How many supplementals do we have floating around and potentially another one coming up? So we have a lot of supplementals under any case, but it at least puts you in a position that all political parties at one time or another would not be faced with a government shutdown in an election year where you really turn over at that point all of the power to the presidency, no matter who is in power, if you have a disagreement; and it seems to me a biennial budget would be one way to resolve that, because you work it out as much as you can in the first year, and the supplemental in the second year.

Thank you.

Mr. NUSSLE. In some respects, that is what we did last year. We basically kept the budget in force because we didn't have a budget. So you almost saw last year what a two year budget was like. I am not suggesting it was; I am just saying that the budget kept its effect. And so you can do it, but I think the fact that we have never gotten the numbers right—and it is no reflection on CBO or OMB or anybody; it is impossible to forecast as big as we are, and so getting it right for 1 year I think is something we ought to try and do first. You know, let's walk before we run.

But 2 years is a possibility, although we don't include that under what we have written.

Mr. HASTINGS. I suspect the Senate, their position will be that that is something that we talk about. So thank you.

Mr. GOSS. Mr. Sessions.

Mr. SESSIONS. Thank you, Mr. Chairman.

Ben, I would like to go first to a question to you to make sure I understand. You said that the CR would be neutral if we were unable to agree. That means that you take which year's—

Mr. CARDIN. Last year's.

Mr. SESSIONS. The prior year. So you just take the prior year and keep moving forward until we are able to—

Mr. CARDIN. Right. There are some who think that there should be an inflator to it, some who think there should be an automatic reduction. By using neutral, we took last year's number without an deflator or inflator.

Mr. SESSIONS. The last one that had presumably been utilized and agreed to?

Mr. CARDIN. Correct.

Mr. SESSIONS. And that just automatically happens and does not require any act of Congress, the President knows it, we know it?

Mr. CARDIN. Right. There is no new appropriation bill enacted into law, that is passed by the Congress and signed by the President; and then it would be an automatic continuation of the current budget.

Mr. SESSIONS. The reason why I asked this is because I believe last year we were unclear as to really what would happen and what needs to take place to avoid shutting down the government, at least some suggestions that I had.

I would like to direct some of my questions, and I will confess to you I have not read the bill yet. Do we have a copy?

Mr. GOSS. Yes. Do you want it?

Mr. SESSIONS. Do we have one?

Oh, that is theirs? Okay. It sure is. Excuse me, I thought that was the prior testimony.

Do you talk anywhere in this budget about scoring dynamic versus static and make any changes?

Mr. NUSSLE. No.

Mr. SESSIONS. No?

Mr. NUSSLE. No.

Mr. SESSIONS. Okay.

Mr. NUSSLE. Just if I could comment on that, that has been an oversight purview of the Budget Committee as an unsettled issue; and it is one that, as you know, is somewhat contentious between

the parties, or has been contentious, and we wanted to avoid that, again in the name of bipartisanship.

Mr. SESSIONS. Okay. Do you anywhere in here—and it kind of goes back to Ben's comments, which I do agree with, about having the legislative branch have some say in how the money will be spent—do you in any sense talk about walling off money? I looked at your charts that are here, and it looks like, look, this is a budget resolution we will worry about when things are actually appropriated.

But do you in any way talk about the walling off of money, because I think in particular, it has caused—

Mr. MINGE. Walling off money for what?

Mr. SESSIONS. Well, for instance, let's suppose—and we could take current circumstances with the war—there was a question about what the President used money for, where he got the money to do things. Is there a provision for tightening up?

Really, Congressman Cardin, I am going on your comments.

Mr. CARDIN. Right. Well, we do have the lockbox provision which has been passed by this House on several occasions on a bipartisan vote.

Mr. SESSIONS. For Social Security?

Mr. CARDIN. No, no, lockbox for cuts that we make in appropriations bills that we don't want to just get recycled, that it would be actually used to reduce the deficit. We do provide for that provision. I think Mr. Minge was very actively involved in the development of that proposal.

As far as the legal use of money, we have not changed the definition of how appropriated funds can be used, but there are certain legal restrictions today on how monies that are appropriated for one purpose can be used for any other purpose other than what it was appropriated for. Whether we need to look at enforcing that is a good question.

You raise a very good question on that, but I think all of us who served on this task force would like to see appropriated monies used for their intended purposes and would support efforts that you might want to look at.

Mr. SESSIONS. Does it say that in here or reinforce that in any way? Did you address that really is my question.

Mr. CARDIN. No. It was not brought to our attention. We did not take a look at it, but I think we share your concern that appropriated monies be used for its intended purposes.

Mr. SESSIONS. And only for that intended purpose?

Mr. CARDIN. Correct.

Mr. SESSIONS. Good. I thank the Chairman.

Mr. GOSS. Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman. I am sorry I missed most of the substantive testimony. I just had one quick question. The CR, is that similar to the Gekas proposal?

Mr. NUSSLE. Almost identical. I would hate to say it was identical without matching it, but it is almost identical language, yes; and Mr. Gekas knows about that and has been supportive in putting that provision into our legislation.

Ms. PRYCE. I had long thought that he had a great idea, and I am glad that you incorporated it.

I have no other questions. Thank you for your hard work.

Mr. GOSS. To be completely fair, I think there is also a provision in this bill identical to the Crapo and Harman lock-box.

Mr. NUSSLE. Yes. The problem is, we have gleaned so much, so much of this has been gleaned from others that have worked so hard. So we must make sure we give credit where credit is due.

Mr. GOSS. One of the reasons we are trying to bring this to a conclusion and pass legislation at this point is, we do feel we have had a lot of good testimony over the years, a lot of good ideas, and the time has come to pass it, take it out and see how we go.

Along the line of Doc Hastings' question, I would just point out that I was very much impressed that when I read the compilation in Title IV, the accountability and the incentives to start getting order into the process, as Mr. Cardin has stated, but particularly the 401 provision, the fixed year authorization request, and then the ten year congressional review and the continuing additional budget process reforms, I mean all of these things go to bringing order to a process now.

I think that the debate frankly is going to boil down to, do you want order or do you want political flexibility? And I think the institution is better served by a little more order in this area, so I think that is what we should shoot for.

I want to thank you all very much. This is a very distinguished panel and we are going to count very much on your participation as we move along. Thank you all.

We have had reference to giants in the testimony we just had, and we have written testimony from one of those giants, Former Member Bill Frenzel, the cochairman for the Committee for a Responsible Federal Budget. Without objection, I am going to submit his full statement for the record.

[The prepared statement of Mr. Frenzel follows:]

**Statement of Bill Frenzel**  
**Co-Chairman, Committee for a Responsible Federal Budget**

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Thank you from myself, and from the Committee for a Responsible Federal Budget, for the opportunity to testify on this important subject. Because I expect to be out of the country at the time of the hearing, this written testimony will have to do for now. However, because I believe the Bill, and the reforms, you are discussing are so important, I will be glad to sit down with you, or any member of this distinguished Committee, to review at length any of these matters at a mutually convenient time.

It is my understanding that your hearing will focus on the reforms contained in HR 853, introduced this year by Mr. Nussle (IA), Mr. Cardin (MD) and Mr. Goss (FL), the latter of whom is the Chairman of your Process Subcommittee, and others, including yourself, Mr. Chairman, and the Chairman of the House Budget Committee. I will also refer to the pioneering work done by Mr. Barton (TX) in HR 2599 (1995), HR 4142 (1996), and HR 2003 (1997), and to some of the ideas of the Chairman of the Senate Budget Committee, Mr. Domenici, mostly expressed in S 92 and S 93, which has now been divided into a number of other bills.

Following the form of the authors' *Highlights* of HR 853, provided by your staff, my comments are as follows:

**I. Joint Budget Resolution**

Junking the present Concurrent Resolution, and substituting a Joint Resolution which must be signed by the President, is *essential* to making the Budget Process into a serious exercise. The fact that we now we have two budgets is source of considerable mischief, and of infinite confusion about "baselines". One single budget is easier for the public to understand. It would create a new level of political accountability sadly lacking in the current process.

It would be easier for the Congress, CBO, OMB and the President to deal with. It should move much of the negotiations which now clog the end-of-the-fiscal-year period up into the end of the second quarter of the year.

The enforceable discretionary caps long sought by Mr. Barton, and supported by Mr. Domenici, would become a matter of law with a firewall between defense and non defense spending. We would still *strongly prefer* a 5 or 6 year extension of the caps in the Joint Resolution.

Reducing the 20 present budget functions to total spending and revenue levels

with separations for discretionary and mandatory spending is a *useful* simplification, similar to the recommendations of S 93.

## II. Budgeting for Emergencies

The requirements of HR 853 are *essential* to bandage one of the worst running sores of the current process. When the Congress and the President wave the magic wand of "emergency" over routine expenditures, they give the process a bad name and weaken public trust and understanding. No language, outside of capital punishment, is strong enough, but this helps.

We still *prefer* the stronger protections of Mr. Barton's HR 2599.

## III. Enforcement

The strengthened enforcement procedures of HR 853 are the very least that should be considered. Waiver approval, by this Committee, is another *good* proposal. I pray the Committee will set a strong precedent of gimlet-eyed scrutiny and a willingness to say "No" when it needs to be said.

## IV. Increased Accountability

This is another set of *useful* proposals. The 10 year sunset of new spending proposals is a particularly good.

Because of the Senate's lack of a germaneness rule and its willingness to amend anything, I am less enthusiastic about having separate votes on the debt. Such votes have the odor of accountability about them, but, in fact, they have not improved fiscal sobriety in budgeting. In my judgement, they simply offer fresh opportunities for mischief.

## V. Accrual Budgeting

For non-CPAs, it is often useful to peek into the till, but accrual accounting is the *right* way to handle the long term insurance programs covered here.

With respect to protection of Social Security, the provisions are *important* and *necessary* for public confidence in the American Social Contract. Mr. Barton has expressed similar ideas, and Mr. Domenici's lock box language is even better.

## VI. Reducing the Big Spending Bias

Comparisons with last year's spending is a *huge step* forward. The public will understand the comparisons, and love them!

Stop-gap appropriations at last year's spending levels may be an *improvement* over the present process. They will protect the Congress from its own folly, but they represent a power shift from the legislative branch to the executive. We *prefer* the Barton figure of 95%, or lower, rather than the 100% in HR 853. At 100%, we believe that there may be insufficient incentive to negotiate.

The discretionary savings' lock-box provisions will provide incentives for spending reduction amendments, and may be one of the great "*sleeper*" provisions of the bill.

## VII. Pay-Go in Times of Surplus -

It may accurate to describe our Committee as elderly and unable to think in terms of the modern "surplus" economy. Nevertheless, it makes me nervous to relax any hard-won restrictive rules. This feature may be a reform, but we remain *unconvinced* of its value. It opens doors we would prefer to keep closed. This feature is may be necessary in this modern era, and is similar to provision prepared by Mr. Barton in his 1998 version which was not formally introduced.

## VIII. Other Reforms not in HR 853

1. Biennial Budget - Both Mr. Barton and Mr. Domenici favor. Our Committee recommended it to Congress in 1994. You may have to consider it somewhere in the process of reform. But, in my judgement, Biennial budgeting pales in comparison to the many other splendid reforms in HR 853.
2. Enhanced Rescission - Since the Court decision on the Line-Item-Failure, I believe it is now responsible to revisit this subject. The Committee and I have always thought that, at the very least, a vote ought to be required to give a rescission item a proper burial.
3. Entitlement Caps - Neither HR 853 nor Mr. Domenici includes this subject. We still stand with Mr. Barton on his 1995 proposal, but we harbor no illusions that your Committee is going to jump off this cliff.

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Mr. Chairman, your Committee is engaged in as important a labor as the Congress will work on this biennium. The Committee for a Responsible Federal Budget congratulates you, and the distinguished members of your Committee, for this undertaking. Our Committee would love to term limit itself as soon as a responsible federal budget is no longer an oxymoron. If you can enact what is now before you, you will be helping us toward the retirement we so earnestly seek and richly deserve.

Mr. GOSS. At this time, Chairman Linder is going to call the next witness.

Mr. LINDER. [Presiding.] Dr. Irving, welcome. We are pleased to have you here.

Dr. Susan J. Irving from the General Accounting Office oversees work on the structure of the Federal budget, the budget process, the U.S. fiscal position, and related issues. Dr. Irving has served as a Legislative Assistant and Legislative Director to members of the Senate Finance Committee, as Staff Director to the President's Council of Economic Advisers in the Executive Office of the President, and as Vice President of the Committee for a Responsible Federal Budget. Dr. Irving was a Fellow at Harvard's Institute of Politics and has taught public management at the John F. Kennedy School of Government at Harvard University.

Welcome.

**STATEMENT OF DR. SUSAN J. IRVING, ASSOCIATE DIRECTOR  
FOR FEDERAL BUDGET ISSUES, GENERAL ACCOUNTING OF-  
FICE**

Ms. IRVING. Thank you. It is a pleasure to be back. In fact, attached to the back of my written formal statement, which I would like included in the record, is a list of a number of testimonies I have presented here or in the Senate or House Budget Committees dealing with the budget process. We have gone through several years of looking at issues around this process.

I think it is really important to start this discussion with the recognition of how important the budget process is. In some ways, it is one of the most important things all of you do, because it is through the budget debate that you make decisions, with the President, about how to juggle and balance the sometimes conflicting desires of the American people about how much of the wealth we produce in the country shall be used collectively for goals that we can only reach together, and in what form it should be collected and in what form it should be spent.

It is not really a surprise that it takes you some time to think about how to restructure the process, because it is so important. It is also because it is so important that we ask a great deal from that process, and it is never going to measure up in every way to make everybody happy.

On the other hand, you now face a very different situation than you faced in the last decade when the process was last changed greatly. It is important to remember the 1974 act was designed to be outcome-neutral. The goal was to reassert the role of the Congress vis-a-vis the President. Remember, in 1974, we were only five years away from our last balanced budget, so deficit reduction didn't look like a big issue for the process. It was not until the mid-1980s that the process was rewritten with an eye toward achievement of a particular goal, a goal you have now reached.

So for the first time we look at an interesting mix of outlooks. We have budget projections for a surplus as far as the eye can see beyond our normal projection period, combined with the certainty that, absent policy changes you will be faced with a demographic tidal wave which will overwhelm those surpluses.



So what do you want your budget process to do? You want it to allow you to look at the long term, to think about the trade-offs and the big drivers, and to think of that not solely in terms of the ones we think of as long-term commitments—not just Social Security and Medicare—but also other issues. For example, the decision to be the world's superpower carries with it some long-term cost implications that we sometimes fall into the trap of pretending are annual decisions.

We like a budget process that gives you all the information and structure to consider trade-offs. Should we spend more or invest more on consumption? You would like to be able to make trade-offs between missions and tools, and you would like a process that is enforceable and permits you to control results, hold all of us accountable, and at the same time is transparent. These are not consistent goals.

I would like to focus specifically today on the two elements of the bill before us which we had a fair amount to do with developing. One is its focus on the very long term, and the second is its approach to budgeting for insurance. I have some technical comments on some other parts of the bill in the written statement, and we would be happy to continue to work with your staff as you move ahead in markup.

The focus on the long term has long been an interest of the General Accounting Office. Indeed, in 1992, we were the first of your support agencies to do some modeling, looking out 50 years at what would happen if you imagined a computer that could just make the budget keep going, but you allowed some interaction with the economy. Now, this is an unrealistic set of assumptions—let me be clear about that—and sure enough, it showed you couldn't do it. The world explodes.

What we see if you update the model to reflect the current situation which we have done periodically at the request of various Members, is that the combination of a good economy and some very tough decisions by all of you has, in fact, dramatically changed the situation. But we still face an unsustainable long-term fiscal policy, and I think the benefit of the provision in this bill to look out over the very long term for everything is that it permits all of you to look ahead and see what are implied commitments, what the budget looks like as a whole, not just parts in isolation.

The Social Security Trustees' report tells you what Social Security looks like. They do a very good job of telling you the system has a problem on its own terms, but they do not in the Trustees' report tell you what happens if you fix it on its own terms to the rest of the budget, to the economy.

We have a great many programs where we don't look out that far because we feel ourselves limited to things where we can measure precisely, and no 75-year projection would be better than giving you a sense of direction and order of magnitude. But I think this is critically important as you begin to look further and further ahead and make more and more commitments that, in fact, have long-term implications.

I would like to talk a little more specifically about insurance. For a lot of reasons having to do with control, we use what is loosely referred to as a cash-based budget. Cash is harder to game, you

can count it and frankly, the difference between accrual and cash for things like your salary and my salary is trivial. But we discovered in the 1980s that for credit, the difference between cash and accrual was a dramatic difference. The budget in the 1980s showed a direct loan just like a grant. All the money went out and we ignored that it would be repaid. Conversely, loan guarantees looked free; you could put any loan guarantee you wanted in the budget, and it was free. The fact that some of those would be defaulted and money would flow out later, well, that was the future, somebody else's problem.

So in 1990, as part of the Budget Enforcement Act, you all enacted the Credit Reform Act, and we now try to look at the estimate of what the government is actually on the hook for in credit programs: what is the subsidy. These estimates are not great, but they are a lot better than what we used to do.

Insurance is harder. Right now the Pension Benefit Guarantee Corporation looks like a cash generator to the Federal Government. It is a profit center, because we count the premiums that come in on a cash basis, and in the years we don't have to pay out, it doesn't look like it costs us any money. I would suggest there is almost no plausible scenario under which, over the long term, PBGC is a profit center, it is not set up to be a profit center; and it makes much more sense for us to begin to think about the insurance commitment the Federal Government is making when it issues insurance.

What kind of risk are we assuming for the Federal budget? In the abstract, a model that is almost exactly based on credit makes a lot of sense. The problem is, we know how to do it for credit—not very well, but we know how to do it. There is lots of experience out there with estimating loss ratios. We can look at cohorts, you know, one group alone versus another, until it makes sense.

Insurance is a lot harder to model. And an accounting analogy doesn't work precisely. So the approach taken in this bill has a lot to recommend it.

There is a fairly slow phase-in period during which OMB and CBO are required to attempt to do the numbers, to display them as additional information. It requires that OMB, CBO and GAO comment on progress. It sets FY 2006 as a date certain for putting those into real budget numbers. I presume that is to create a huge incentive for the agencies to get it right.

However, I think there are problems with a two-year sunset. It puts insurance in for 2006 and it triggers off at the end of 2007. I think you may wish a sunset, that is, you may wish a trial period at which point Congress votes explicitly on whether they think this is working, but I think 2 years is probably too short.

Those are the two areas of this bill on which your staff asked me to focus. I will be glad to answer any questions you may have.

[The prepared statement of Ms. Irving follows:]

Mr. Chairman and Members of the Committee:

It is a pleasure to return to talk with you again about the congressional budget process—and especially whether and how it should be changed to meet the fiscal situation presented today.

Attached to my testimony today is a list of testimony statements we have issued on the budget process over the past 5 years. In addition, I was fortunate to participate in your September 1997 briefing on budget enforcement procedures in the House of Representatives.<sup>1</sup>

As we have discussed before, everyone involved in the budget process shares some frustration with it. The public finds it confusing. Executive branch agencies say it is burdensome and time-consuming. Members of the Congress say it seems too lengthy with too many votes on authorizations, budget resolutions, reconciliation, appropriations, emergency supplementals, and the debt limit.

In one sense, of course, nothing could be more important than debates about the budget. Budgeting is the process by which we as a nation resolve the large number of often conflicting objectives which citizens seek to achieve through government action. The budget determines the fiscal policy stance of the government—that is, the relationship between spending and revenues. And it is through the budget process that the Congress and the President reach agreement about the areas in which the federal government will be involved and in what way.

Because the decisions are so important, we expect a great deal from our budget and budget process. We want the budget to be clear and understandable. We want a process that presents the Congress and the American people with a framework in which to understand the significant choices and the information necessary to make the best informed decisions about federal tax and spending policy.

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<sup>1</sup> The Congressional Budget Process committee print. September 26, 1997.

In addition to these broad goals, the budget process has also been expected to respond to the budget challenges of a particular time. The 1974 Budget and Impoundment Control Act was designed to reassert the Congress' role in setting overall federal fiscal policy and in establishing spending priorities. The act sought not to achieve a particular outcome but to impose a structure and a timetable on the budget debate. It was neutral as to fiscal policy.

It was not until the enactment of the Balanced Budget and Emergency Deficit Control Act (also known as Gramm-Rudman-Hollings or GRH) in 1985 that the budget process was designed to achieve a particular goal. Both GRH and the 1987 amendments to it sought to achieve a specific outcome: a balanced budget by a time certain. However, GRH sought to use a change in process to force agreement on substance--and measured against its stated objective of a balanced budget, it did not succeed.

The 1990 Budget Enforcement Act (BEA) took a different tack toward the same end. While it also sought to achieve a balanced budget, it used process to enforce a previously reached agreement. It was designed to limit congressional actions that would increase the deficit. On its own terms BEA succeeded, but its ambition was limited. It did not seek to control economic or demographic-driven growth in existing entitlement programs--and that is the area of greatest growth today.

Nevertheless, the combination of fiscal discipline and economic growth led to the first balanced budget in nearly 30 years. Today, therefore, a different fiscal situation has emerged. After nearly 30 years of unified budget deficits, current projections are for "surpluses as far as the eye can see." At the same time, the country faces a demographic tidal wave that will--absent a change in policy--overwhelm the budget.

This is a new set of challenges for the budget process: almost 30 years of projected surpluses followed by--absent changes in Social Security and Medicare--a reappearance of large and growing deficits. These circumstances present an opportune time to re-

examine the budget process. Such an examination should be guided by a number of key principles.

#### General Criteria for a Budget Process

In the past GAO has suggested four broad goals or criteria for a budget process.<sup>2</sup> The process should

- ◆ provide information about the long-term impact of decisions while recognizing the differences between short-term forecasts, medium-term projections, and longer-term simulations;
- ◆ provide information and be structured to focus on important macro trade-offs;
- ◆ provide information necessary to make informed trade-offs between missions and between the different tools of government;
- ◆ be enforceable, provide for control and accountability, and be transparent.

Each of these is important, and they are related--but they cannot all be maximized in a single process. Trade-offs are necessary. Today, in the context of H.R. 853, your staff asked me to focus especially on the importance of the long-term perspective, on increasing the understanding and recognition of long-term commitments and insurance commitments in the budget, and on how this relates to the need for control, accountability, and transparency.

#### Long-Term Perspective and Commitment Recognition

A long-term perspective is important in the budget debate in both a macro and a micro sense. By macro I mean the nation's economic health. The nation's economic future depends in large part upon today's budget and investment decisions.<sup>3</sup> Therefore, we believe that, at the macroeconomic level, the budget should provide a long-term

<sup>2</sup> Budget Process: Evolution and Challenges (GAO/T-AIMD-96-129, July 11, 1996) and Budget Process: History and Future Directions (GAO/T-AIMD-95-214, July 13, 1995).  
<sup>3</sup> Budget Issues: Long-Term Fiscal Outlook (GAO/T-AIMD/OCE-98-83, February 25, 1998).

framework and should be grounded on a linkage of fiscal policy with the long-term economic outlook.

The micro aspect of this longer-term perspective relates to those programs and activities where a longer time horizon is necessary to understand the fiscal and spending implications of commitments for specific purposes. Examples include retirement programs, Medicare, and pension insurance--and even some discretionary programs whose design implies continued funding. Although BEA's multiyear focus represented significant progress in this regard, planning for longer range economic goals and looking at the costs of some commitments requires looking much further ahead. For these programs, even very rough projections may be better than ignoring the long term.

Since the bill before you deals with both of these aspects of the long term, let me discuss each.

#### Long-Term Macro Perspective

Beginning in 1992, congressional leaders have requested that GAO provide a long-term macro perspective by modeling the implications of different fiscal policy paths for the nation's economy over a long-term period, which has ranged from 50-75 years. We have periodically updated these simulations to account for changes in the fiscal and economic environment. For the last 4 years the Congressional Budget Office (CBO) has also produced long-term simulations and the President's budget has included long-term simulations by the Office of Management and Budget (OMB). The CBO and GAO results have been quite similar.

Looking at the simulations since 1992 tells the dual story of today's fiscal challenge: (1) the outlook has improved greatly from earlier simulations and (2) looking out over the longer term the current situation is not sustainable. In 1992 modeling a continuation of the then-current fiscal and budget policy resulted in a deficit exceeding 20 percent of gross domestic product (GDP) by the year 2020. In contrast, today's update shows the

benefits of the difficult policy choices made by the Congress and the President and of a healthy economy: in 2020 the model indicates a surplus of 1.5 percent of GDP and does not show a deficit re-emerging until 2028. However, this improved outlook does not mean that the fiscal challenges facing the country have been met. In fact, the current situation is still not sustainable over the long term. Our most recent model results indicate that, if current policy were continued, by 2063 federal revenue will cover only health care, Social Security, and interest spending. To continue all other spending at current policy levels would require federal borrowing and/or revenue increases. As the Comptroller General pointed out earlier this year,<sup>4</sup> absent any policy changes, budgetary flexibility declines drastically over time and there is increasingly less room for programs for national defense, the youth, infrastructure, and law enforcement. This is true even if we assume that the entire unified budget surplus is saved and used to reduce debt (and thus interest) from current levels.

We believe these simulations provide a useful perspective that is often lacking in budget debates. They tell us that the surplus is temporary. Perhaps more important, they alert us to the fact that even if the surplus is "saved," we face an unsustainable outlook. These simulations also provide a context within which to look at longer term projections for individual programs such as Social Security and Medicare. Both of these programs use trust fund financing and accounting. As a result we get a picture of their financial outlook by looking at the trust funds--for example, we know that under the current tax and benefit structure, Social Security's annual cash receipts will fall short of annual cash outlays in 2014 and that the Social Security Trust Fund will be insolvent in 2034. The Trustees' report does look 75 years out. However, in analyzing Social Security and considering alternative program changes it is a mistake to look only at the trust fund; it is important to also recognize how Social Security fits into the budget and the economy and to understand how it grows as a share of both.

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<sup>4</sup> See, for example, Social Security and Surpluses: GAO's Perspective on the President's Proposals (GAO/T-AIMD/HEHS-99-95, February 23, 1999).

Although we consider these simulations--and other long-term "projections"--to provide critically important context for budget deliberations, we would also stress that they must be interpreted carefully. Given the range of uncertainty about economic changes and the response to these changes, these simulations cannot be viewed as forecasts of budgetary or economic outcomes 50 years in the future. Indeed, the dramatic improvement in the outlook over the last 7 years shows how sensitive these results are to unanticipated shifts in economic growth or to policy actions. The simulations, therefore, should be seen as illustrative of direction and magnitude given current information about demographic and budgetary trends and the functioning of the economy.

In this spirit, the approach taken in H.R. 853 has much to recommend it. Requiring reports on 75-year budgetary trends for the budget as a whole can help provide the necessary long-term context. Few of the government's commitments are truly transient. For example, embedded in numerous programs and policy decisions are long-term relationships with states and in the international community that have fundamental implications for the cost of government over time. The inclusion in the budget of OMB's reports and comparisons between the President's policy proposals and current law will focus more attention on the long term and on how the President would seek to address looming problems. Having a CBO report as well will permit the Congress and other observers to make comparisons with the OMB current law report, providing an independent view. Although we do not make budget projections or estimates, as long as it is useful to the Congress we will continue our work on the long term as well. Given the level of uncertainty involved in long-term modeling--and the need to be aware of how sensitive results are to different assumptions about how the economy works--it has proven useful to have several different entities develop and maintain the ability to simulate the long term. In the past, the few players in this arena have collaborated and shared techniques, data, and analyses. This has increased the confidence that can be placed in the direction and magnitude of the results. I am sure this will continue, especially if the requirements in H.R. 853 are enacted to ensure the continued efforts of OMB and CBO.



Long-Term Focus at Micro Level Needed in Budget

The budget was not designed to and does not provide complete information on long-term cost implications stemming from some of the government's commitments when they are made. We have long advocated that policymakers need information on the long-term cost consequences of today's commitments. For programs as large as Social Security and Medicare this is important both for macro policy and for resource allocation. However, it is also important to understand the long-term implications of the commitments for those programs too small to drive the long-term outlook. A budget is about the allocation of scarce resources. Such decisions reflect a number of factors including beliefs about the appropriate role of government in various areas, judgment about the likely success of a program in achieving certain goals, and the cost of a program. It is important that Members of the Congress, the President--and citizens--be able to compare program costs on a consistent basis.

A budget should be structured to permit informed programmatic decision-making across a wide range of approaches—for example, insurance, credit, asset sales, capital, grants, and direct service. This is less difficult if policymakers know what the cost of a given decision will be. Although for many programs BEA's multiyear time frame has represented great progress, there are programs and activities where a longer time horizon is necessary to understand the spending implications of the government's commitment--and this commitment affects future budgetary flexibility.

H.R. 853's requirement for reports on long-term budgetary trends should also be helpful in this area. While long-term information on Social Security and Medicare has been available in Trustees' reports--and is often cited in the debate--these are not the only programs in which the government has made long-term commitments. Civilian, military,

and veterans' retirement benefits comprise another large category of the federal government's commitments. While some have been recognized in the budget, none of the costs of civilian or military retiree health benefits are recognized in the budget as they are earned. The same is true for veterans' pensions and benefits. As the result of new accounting standards which require its reporting, information on the long-term liabilities of these other retirement and benefit programs is now being made available in annual financial statements. This information can supplement the information included in the budget as decisionmakers consider the costs of these programs.

Programs with an apparently shorter time horizon than pension and health commitments could also benefit from a longer term perspective. As I noted above, many government programs and policies imply costs over a relatively long period of time. For some of these--e.g., pensions--long-term costs may be easy to calculate. For others, such as decisions about the nation's role in the world or some intergovernmental commitments, costs are more difficult to estimate. Unfortunately for analysts, ease of calculation does not always correlate with importance.

Federal insurance provided to individuals and businesses against a wide variety of risks is a prime example of the type of program that may carry long-term cost implications. In 1997 we reported that the current cash-based budget generally provides incomplete and misleading information on the cost and fiscal impact of federal insurance programs.<sup>5</sup> The use of accrual concepts, such as budgeting for the cost of the risk assumed by the government as in H.R. 853, has the potential to better inform budget choices. In our report, we supported supplemental reporting of these cost estimates in the budget, as required by H.R. 853. We believe this supplemental reporting will allow time to validate estimation methodologies and increase the users' comfort levels with accrual estimates before considering whether to move to a more comprehensive approach of incorporating the risk-assumed estimates into the budget numbers.

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<sup>5</sup> Budget Issues: Budgeting for Federal Insurance Programs (GAO/AIMD-97-16, September 30, 1997). See also Budget Issues: Budgeting for Federal Insurance Programs (GAO/T-AIMD-98-147, April 23, 1998).

H.R. 853 requires that estimates of the risk assumed by the government in these programs be disclosed in the budget. It also sets fiscal year 2006 as a date certain for moving to the comprehensive approach. We recognize that setting a date for inclusion in budget numbers may well increase agencies' attention to and efforts to develop good quality estimates. However, the bill also sunsets this provision at the end of fiscal year 2007--thereby including these numbers in the budget for only 2 years. This seems problematic for two reasons. First, the knowledge that the numbers would only be used in the budget for 2 years could reduce the pressure to do the hard work necessary to develop good estimates. Second, changing the basis of budget numbers for only 2 years is likely to be both burdensome and confusing. This is not to say that there should be no re-examination of a change of this magnitude. Certainly it makes sense after some number of years of experience for the Congress and the President to consider progress under budgeting on a risk-assumed basis and make a decision whether to continue or not. However, our experience with credit reform--which is easier than estimating risk-assumed costs for insurance--tells us that a 2-year trial is too short for making such a judgment.

Whatever approach to implementation is finally decided upon, I must stress that the calculation of the risk-assumed costs is complex. Some programs will be better able to make the estimates than others. H.R. 853 also calls for OMB, CBO, and GAO to report on the advisability and appropriate implementation of budgeting for the risk-assumed costs. These reports should play a significant role in a final decision about when these numbers are ready to be incorporated into the budget.

#### Role of Long-Term Perspective in Increasing Control, Accountability, and Transparency

Incorporating a long-term perspective into the budget process advances the goals of control, accountability, and transparency. Transparency is a complex goal. At times it demands simplicity--and I would be the first to admit that incorporating long-term cost estimates is unlikely to simplify the budget process. However, transparency can also mean "no hidden costs" or "few surprises." This aspect of transparency is advanced by

understanding and disclosing the long-term cost implications of as much of the budget as is possible. The Congress, the President, and the taxpayers have a right to the best information possible about the cost of the future commitments that they are making.

These long-term cost estimates are also important for control and accountability. The Congress and the President are best able to control the cost of a program when it is created or modified. For example, cash-based budgeting for insurance programs provides not only incorrect, but also misleading, information about the expected cost of these programs to the federal government. If these costs were available—even as rough estimates—at the time an insurance program was proposed, policymakers could consider design elements that might reduce costs.

#### Technical Comments on H.R. 853

Since BEA's limits on budget authority and outlays remain in effect through 2002, care must be taken in designing the relationship between BEA and any changes in the budget laws that take effect before its expiration. For example, H.R. 853 is clear in its repeal of the current requirement to adjust the spending limits for emergencies. The interaction between the existing spending limits on budget authority and/or outlays and any joint resolution on the budget vetoed by the President is less clear. BEA contains a number of different limits on budget authority and/or outlays. For fiscal years 2001 and 2002, it contains budget authority and outlay limits for discretionary programs and separate outlay limits for highway and mass transit programs.

However, under H.R. 853, if a joint resolution is enacted into law, it would specify subtotals of new budget authority and outlays for nondefense and defense discretionary spending, direct spending, emergencies, and other subsets of spending if deemed necessary. If the President signs the joint resolution and it is enacted, these subtotals would replace the current law's spending limits. However, H.R. 853 contains "fall-back" procedures for expediting a concurrent resolution if the President vetoes the joint resolution. While this is a workable way for dealing with the possibility of a presidential

veto, failure to enact the joint resolution on the budget means that BEA's limits on discretionary, highway, and mass transit are still in effect. This would lead to a situation in which the concurrent resolution would contain subtotals for defense, nondefense, and emergencies while the governing law contained statutory limits on discretionary, highway, and mass transit spending. It would appear that the concurrent resolution on the budget's subtotals for defense, nondefense, and emergencies would serve as a blueprint/guide for congressional action on spending, revenue, and debt without the force of law.

*Technical Issues In Approach to Insurance Budgeting:* I have previously discussed insurance budgeting and our support for having the Congress encourage the development and reporting of annual risk-assumed cost estimates with the idea of moving toward a comprehensive accrual-based budgeting approach when feasible. H.R. 853 definitely moves in that direction. I do have two technical concerns. The first is related to the budget accounting for administrative costs described in the bill. Although the bill is somewhat unclear on some issues, it appears that the goal is to make the administrative costs a part of the risk-assumed cost, a feature that has been considered as desirable. The bill specifies that all funding for administrative expenses will be displayed in the program account and that the financing account will transfer to the program account the amounts necessary to pay the administrative costs. The financing account is the nonbudgetary account that accounts for all cash flows related to the insurance program, including premiums. The bill specifies that in calculating the risk-assumed cost of insurance, administrative expenses are to be subtracted from premiums. Presumably, although the bill is not clear on this point, this is the financing source that the financing account will use to pay the administrative expenses to the program account. I would be happy to work with your staff to clarify how administrative costs are to be financed.

The second technical concern relates to the financing of reestimates. The bill specifies that the amount of the reestimate shall be paid from the program account to the financing account. It is silent as to whether the program account receives a permanent appropriation for the reestimate or whether some other financing source is envisioned.

As you know, in credit reform a permanent appropriation was provided for reestimates but some have raised the issue that this does not provide agencies an incentive to make good initial estimates. Again, I will be happy to discuss this issue in greater depth with your staff.

*GAO Report Requirement:* Finally, I note that the bill would require GAO to study, at least every 5 years, the provisions of law that provide mandatory spending and to recommend the appropriate form of financing for activities or programs financed by such provisions of law. Current law requires this study but leaves the timing open—it must be revised “from time to time.” We have issued reports under this requirement three times since mid-1987 and have found that it requires so significant a commitment of time and staff that it constrains our ability to do other work. Therefore, I would like to talk with your staff about how to provide the information in which you are interested promptly and efficiently.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or the Members of the Committee may have.

**Related GAO Testimonies**

**Budget Issues: Budgeting for Federal Insurance Programs** (GAO/T-AIMD-98-147, April 23, 1998).

**Budget Issues: Long-Term Fiscal Outlook** (GAO/T-AIMD/OCE-98-83, February 25, 1998).

**Budget Process: Evolution and Challenges** (GAO/T-AIMD-96-129, July 11, 1996).

**Budget Process: History and Future Directions** (GAO/T-AIMD-95-214, July 13, 1995).

**Budget Process: Biennial Budgeting for the Federal Government** (GAO/T-AIMD-94-112, April 28, 1994).

**Budget Process: Some Reforms Offer Promise** (GAO/T-AIMD-94-86, March 2, 1994).

Mr. LINDER. Just the fact that we are looking at long-term potential liabilities is a plus. Do you have a number at GAO in terms of what our underfunded liabilities are with respect to retirement programs?

Ms. IRVING. The answer on the Federal is, we can find it. I don't have it off the top of my head.

Mr. LINDER. We have had numbers bandied around here for years of 6 to 12 trillion.

Ms. IRVING. Many estimates are made using different assumptions. Some estimates of Social Security are based on a, closed system, which assumes you are getting no new entrants. Those numbers tend to be the highest.

I know there is a debate in the community of people who are interested in improving the numbers. I think using huge scary numbers makes it worse. I think it is better to look realistically at the fact that you have some pension liabilities that you know how to count, and Social Security, which is sort of a different animal, and then you have sort of the implied commitments that we don't know how to account for: deposit insurance, some of the other insurance programs.

Let me be clear. The numbers that you would use under risk assumed will probably be wrong, but they will at least be in the right direction. I mean, I don't think it matters if it is ten when it really should be twelve, but it matters if it is plus three when it should be minus five.

But I will get you what we have on that, sir.

Mr. LINDER. The question was raised earlier, by Mr. Sessions I think, about dynamic versus static scoring; and my understanding that is not a legislative solution, that is a solution determined by the various agencies that do estimating based on their best judgment. But we learned, I think, a pretty big lesson on the cuts in capital gains taxes that brought dramatic increases in revenues. You see nations since 1984 to 1996, Caribbean nations, dramatically cutting marginal tax rates, increasing their revenues. We have had some experience here with that.

Are we moving toward more dynamic scoring, a more honest assessment of the tax burden that we impose on business and individuals? Does it have an impact on the future size of the economy?

Ms. IRVING. The discussion of "dynamic" versus what is misleadingly called "static scoring" I think is often a misleading discussion because we fall into the trap of implicitly accusing CBO and Treasury of doing really static scoring. Really static estimates would be—to use a really bad example—taking a 50 cent cigarette tax per pack and, multiplying it by the number of cigarette packs bought last year to get a revenue estimate. No one does that kind of static scoring. Estimators would assume that there will be a reduction in the number of cigarette packages bought, so that, to that extent, what I would call "first order effects" are generally taken into account.

In terms of the longer-term issues or the broader issues of impact on the economy, there are of course two sides of this issue. It is mostly raised in terms of tax cuts, but there are a great many people out there who believe that there are some spending in-



creases that also should be scored dynamically once you start down that road.

In addition, capital gains is a really interesting one because the other way to get an increase in capital gains receipts is to announce a prospective capital gains rate increase. We know that if you enacted a tax increase for two years from today, you would get dramatic realizations over the next two years. One of the issues in other countries is that in many of the countries where you see dramatic responses from changes in tax burdens, their tax burdens are so much higher than the ones we are discussing now, and these things tend to have decreasing marginal impact. There is a real difference going from a 90 percent tax rate to a 50 percent, compared from going from 50 to 40. For most estimators it feels like a slippery slope when one person calls up an amendment saying it will generate investment and another person says, "Oh, but if it is spent on airports, we will get more."

CBO did an interesting paper on this about two years ago.

I am glad to say at GAO one hard and fast rule is, we don't score. You don't need a third set of numbers.

Mr. LINDER. We may have some questions submitted to you later for your review.

[The information follows:]

**Submitted Questions and Answers**  
**Dr. Susan J. Irving**  
**Associate Director for Budget Issues, General Accounting Office**

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1. In your testimony, you state that GAO has suggested four broad goals for a successful budget process. One of these goals is to "provide information about the long-term impact of decisions while recognizing the differences between short-term forecasts, medium-term projections and long-term simulations."

How can the requirement in H.R. 853 that CBO and OMB provide 75 year estimates be helpful in this regard?

ANSWER:

H.R. 853's requirement for OMB and CBO to provide 75-year estimates would provide information about what could happen under current law if no policy actions are taken. The requirement for OMB to also report on 75-year estimates that would result from adopting the President's policy proposals and to compare that to the current law estimates would provide information on the possible effect of one set of actions. Other sets of policy actions, such as those in the budget resolution, might also be simulated to provide information on the fiscal effects of those decisions. But the difference between these long-term simulations and short-term forecasts and medium-term projections is that the simulations should be seen as illustrative of direction and magnitude and not be viewed as forecasts of specific fiscal outcomes. They are much more uncertain than forecasts or projections covering shorter time periods.

2. You make a very important point in your testimony that "even if the surplus is 'saved', we face an unsustainable outlook."

Would this suggest that the Clinton Administration budget submission, or any previous Administration's budget submission for that matter, is incomplete in that it does not address the structural and demographic challenges that lie ahead?

ANSWER:

Each Administration submits a budget that presents its proposals to address what it sees are the most pressing problems confronting the nation at that time. To do this each Administration balances short, medium and long-term goals in many areas--the economy, national

security, general welfare of the citizenry. In addition, how the nation addresses the demographic challenges that lie ahead may vary depending on what the economy looks like. Bringing the deficit under control has been seen by many as one of the--if not the single--most pressing issue confronting national economic policy. Since most budgets in the last 15+ years have been presented when the forecast still showed high deficits, Presidents may have chosen to focus on deficit reduction--thus building a base from which to tackle long-term structural and demographic challenges.

3. You state that "Social Security and Medicare are not the only programs in which the government has made long-term commitments". In fact, there are a number of direct spending programs that have a serious long-term impact on the budget.

Would you recommend simply including the aggregates for all direct spending in our long-term estimates (that is just one number for all direct spending) or would you favor a more specific approach that details each program by itself?

ANSWER:

Attempting to model the details of each direct spending program would introduce much greater complexity into the models for making long-term projections without providing information that is drastically different from using aggregates for programs other than Social Security and health care. It is clear that these latter are the drivers of the long-term challenge facing the country. However, I want to add that for insurance programs--most of which are direct spending programs--the cognizant agencies ought to be developing models to help them estimate the risk assumed by the government due to those programs. If the insurance budgeting proposal contained in H.R. 853 is enacted (and maintained beyond the 2 years specified in the bill), these risk-assumed estimates would be included in aggregate long-term projections in the future.

4. I was very interested in your description of transparency as a complex goal, particularly your point that one thing transparency can mean is "no hidden costs" or "few surprises."

Is it your contention that providing Congress with greater information on the long-term costs of current law is a useful tool and will actually help Members make more educated decisions?

ANSWER:

Yes, I firmly believe that providing the Congress with greater information on the long-term costs of current law will help Members make better-informed decisions.

5. H.R. 853 contains numerous provisions designed to encourage House committees to reauthorize the programs within their jurisdictions every 10 years. If not requiring them to seek to abide by the letter of clause 2 of House Rule 21 relating to appropriating money for unauthorized programs, it does seek to encourage committees to abide by the spirit of this rule.

Particularly, H.R. 853 prohibits the creation of a program for an

indefinite period of time, limits authorizations to 10 years, and requires committees to establish timetables for these authorizations within their oversight plans.

Does GAO possess any information or resources that may assist committees and ultimately the House in complying with these new requirements?

ANSWER:

Committees in their oversight roles are currently using much of the work that GAO does. We produce evaluations of specific programs with recommendations for improvements in management, economy, efficiency, and effectiveness. The financial audit reports on individual agencies and the consolidated financial report of the U.S. government are also sources of information that would complement that provided in budget documents. GAO performs the audit of the consolidated statement and some of the agency audits. It also reviews the financial audit reports for all individual agencies and thus has a large knowledge base that could be drawn upon by committees in their oversight roles.

Mr. LINDER. Mr. Hastings.

Mr. HASTINGS. I just wanted to understand what you were saying about long-term planning and forecasting. The two obvious ones of course are Medicare and Social Security. The assumption is that there will be no changes, but if there are some changes, then of course the dynamics will change.

Give me some examples of other long-term commitments that we have that we don't address fully. I think I heard you say that we don't do a good enough job on that, so give me some examples of that.

Ms. IRVING. Social Security and Medicare are obviously the 800-pound whatever you want to call them in the budget, and they are the ones that would have the greatest effect on the macroeconomy. In terms of choices within the government, we do a mixed bag on our Federal pension obligations; that is, we have begun to include them within the budget to recognize those cost estimates. I think even though we write insurance contracts as one year contracts sometimes, I think it defies belief to think of flood insurance as a one year commitment and renew it every year. So I think it would make much more sense to think about most insurance programs as long-term commitments, and we don't. We just show those on a cash basis.

I also think that there is this interest—the reason I like the idea of the broad budget as a whole simulation out for 75 years, making some assumptions about discretionary, is that there are an awful lot of things that are in fact annually appropriated, but are de facto long-term commitments.

We need to take into account our role in the world. We may change how much we spend on defense every year, but we are never going to go to a tiny defense budget. We are not going to give up our role in the world as a leading power.

I think it is unlikely we will shut down the FBI or the Justice Department or the Immigration and Naturalization Service, and yet by modeling only the long-term legal commitments, we pretend those are annual decisions that could be as low as zero.

One of the things I think is a good idea in this bill is showing long-term estimates for the budget as a whole. It is not that the numbers are right, but it gives you some rough idea of what the size of it would look like and how the composition would change if you just kept everything even.

Do not misunderstand me. These are not real estimates; these are order of magnitude and progression and scope, context providers.

Mr. HASTINGS. Projecting into the future is an inexact science. If anybody here could do that with some certainty, we wouldn't be sitting here.

Ms. IRVING. Exactly.

Mr. HASTINGS. Thank you very much.

Mr. LINDER. Mr. Sessions.

Mr. SESSIONS. Thank you, Mr. Chairman. I probably would be sitting here and we would be in trouble if we could project that.

I note at the very beginning that I am impressed with not only your testimony, but also that you serve on the Board of Directors for The Concord Coalition. I admire that—

Mr. LINDER. You have the wrong one.

Mr. SESSIONS. You are not Martha Phillips? I am just having a tough day. This is what happens when you have your staff guy not here. There is nothing wrong with me.

That is what struck me that I was going to go into because I have, following along with what Mr. Linder said, I heard your discussion and debate that you had about what I thought was very interesting, that John followed up on, where I was talking about the circumstance where we have a tax cut and it raises revenue rather than costing money; and I was interested that you turned that around where you almost wanted to turn us into tax collectors, rather than being for the taxpayer.

Ms. IRVING. Actually, I am glad you raised that. If I—

Mr. SESSIONS. Well, I heard you say, as a matter of fact, since you are interested in revenue, if you are going to raise taxes, you get more money.

Ms. IRVING. Well, but I was pointing out—

Mr. SESSIONS. That is why I found it interesting.

Ms. IRVING. I can understand it. I was actually attempting only to make an analytic point: if the question about dynamic scoring was that someone had scored a capital gains tax cut as losing money, and then the next year it brought in more money—

Mr. SESSIONS. And that did happen.

Ms. IRVING. Yes, I was trying to say that it is also true that that does not, in and of itself, tell you that a capital gains tax is a good or bad idea.

Mr. SESSIONS. Why is that?

Ms. IRVING. Because if your reason for supporting a capital gains tax cut was that you were going to get more revenue the next year, that would also be true if you announced a future raise.

Mr. SESSIONS. But why would we turn this Republican Congress into tax collectors when we are the opposite?

Ms. IRVING. Well, Mr. Sessions—

Mr. SESSIONS. It is not to get revenue.

Ms. IRVING. But I presume that the reason to advocate a cut in capital gains taxes is not because it produces more revenue the next year, but because you think it does something for the economy. The analytic question I was presented with was really a multiplication issue.

Mr. SESSIONS. Here is why we would, because we could do it without having to pay for it. Yes, it does produce all of those things, but we are really not doing it to produce revenue. We want it to be neutral.

Ms. IRVING. Mr. Sessions, I was presented with the arithmetic statement that pushing this button gets you this much more revenue; I was merely saying that you also get more money by pushing a different button. Therefore the debate between those two buttons is a debate broader than whether you get more revenue; it is a debate having to do with what would be an appropriate tax level.

Mr. SESSIONS. That would lead us to the next question. There is an estimate that 62 percent of taxes in this country will be paid by 1 percent of the tax—of the citizens.

Mr. LINDER. Thirty-three. The top one percent pay 33 percent of the taxes.

Mr. SESSIONS. The figure I have seen is 62 percent will pay one percent of the taxes this year.

Mr. LINDER. I think the numbers are wrong. I think the number is the top one percent.

Mr. SESSIONS. Well, let's say that I can produce something that says that, and I can get it sent over here; regardless of whether I am right or wrong, would your philosophy be that we should have 40 percent, 30 percent, or 1 percent of people in this country paying taxes?

Ms. IRVING. Mr. Sessions, except as a private citizen, I would not have a philosophy on that issue. There is a very clear line—

Mr. SESSIONS. But you are an economist. I am not trying to attack you at all.

Ms. IRVING. Actually, my degree is in public policy, which is a mixture of economics and government. But there isn't an analytically single right answer to that number; it is fundamentally a value and a policy call.

I don't have a view on that as an analyst. That is a decision about the appropriate tax structure for the United States, which is appropriately a decision for our elected representatives to make.

Mr. SESSIONS. Well, what is interesting is that we don't even know what the correct answer is.

Ms. IRVING. That actually is probably an answer Treasury could give you.

Mr. LINDER. The numbers I have seen, the bottom 50 percent of the income earners pay about four percent of the taxes. The top one percent pay 32.5.

Mr. SESSIONS. Thank you.

Mr. LINDER. Thank you very much.

Ms. IRVING. Thank you.

Mr. LINDER. Our last panel this morning is comprised of Professor Tim Muris, Martha Phillips and Robert Greenstein.

Ms. Phillips is a member of the Board of Directors of The Concord Coalition, a bipartisan, nationwide grass-roots organization founded by former Senators Warren Rudman and Paul Tsongas. She served as the Executive Director during the Coalition's first six years, October 1992 to 1998. Ms. Phillips is also currently a member of the Medicare Advisory Committee of the National Academy of Social Insurance; the Advisory Board of The Brookings Institution's Economic Studies Program; and the Advisory Committee of the Commonwealth Fund's Program on Advancing the Well-Being of Elderly People.

Before joining Concord, Ms. Phillips was a Republican Staff Director for the House Committee on the Budget from 1986 through 1992. From 1977 through 1985, Ms. Phillips was the Deputy Minority Staff Director of the House Ways and Means Committee, where she also served as Staff Liaison to the Budget Committee. From 1974 to 1976 she was the Staff Director of the Republican Policy Committee, and from 1969 to 1973 she worked for the House

Republican Research Committee, where she served as the Committee Staff Director as well as staff to several task forces. Prior to that, she worked for the U.S. Office of Education and for Representative Melvin Laird.

Mr. Greenstein is the Founder and Executive Director of the Center for Budget and Policy Priorities. Considered an expert on the Federal budget and, in particular, the impact of the taxing budget proposals on low-income people, Mr. Greenstein has written numerous reports, analyses, op-ed pieces and magazine articles on poverty-related issues. He appears on national television news and public affairs programs and is frequently asked to testify on Capitol Hill.

In 1996, Greenstein was awarded a MacArthur Fellowship. The MacArthur Foundation cited Greenstein for making the Center "a model for a nonpartisan research of policy organization." In 1994, he was appointed by President Clinton to serve on the Bipartisan Commission on Entitlement and Tax Reform.

Prior to founding the Center, Greenstein was Administrator of the Food and Nutrition Service at the U.S. Department of Agriculture, where he directed the agency that operates the Federal food assistance programs with a staff of 2,500 and a budget of \$15 million.

Mr. Greenstein received his undergraduate degree from Harvard and has done graduate work at the University of California, Berkeley. In May of 1991, Mr. Greenstein received one of the six Public Achievement Awards awarded by Common Cause. In 1995 he was one of the two recipients from the Center on Law and Social Policy's 25th Anniversary.

Professor Muris has been teaching law at George Mason University since 1988 after serving three years as Executive Associate Director of the Office of Management and Budget. Prior to that he served in various capacities at the U.S. Federal Trade Commission and in the office of the Vice President. He has also taught at the University of Miami and was the Law and Economics Fellow at the University of Chicago School of Law.

You all have been very busy, and I am tired.

**STATEMENTS OF MARTHA PHILLIPS, THE CONCORD COALITION; PROFESSOR TIM MURIS, GEORGE MASON SCHOOL OF LAW; AND ROBERT GREENSTEIN, CENTER FOR BUDGET AND POLICY PRIORITIES**

Mr. LINDER. Please begin, Ms. Phillips.

**STATEMENT OF MARTHA PHILLIPS**

Ms. PHILLIPS. Thank you. I am pleased to be here today on behalf of The Concord Coalition in support of this bill. We commend the bill's sponsors for this set of proposed reforms.

Some people look at a bill and think the glass is half full; others say it is half empty. We think that although there are some things that we might change in this bill, on balance, it is a very useful piece of legislation. The Concord Coalition is pleased to support it and pleased also that it has been developed on a bipartisan basis.

The budget process no longer focuses on reducing or eliminating gaping economically damaging deficits, so the central problem is



maintaining sufficient control to prevent the off-budget Social Security surpluses from being diverted to other purposes in the name of emergencies or just good old fashioned pork and to prevent temporary surpluses in the rest of the government accounts from being used as down payments on expensive, long-term commitments that will continue long after those surpluses disappear.

A second problem that this bill really doesn't touch on is the need to act very soon to prepare for the retirement of the baby boom generation. As previous witnesses have said, we know it is coming and we have to get ready. At least this bill provides a foundation to help us get ready, although it doesn't directly deal with it.

The last Congress gave us several examples of what is wrong with the budget process and what needs to be fixed: the costly and appalling end-game bargaining—which really is a budgetary game of chicken rather than a deliberate, careful allocation of taxpayers' hard-earned dollars, the emergency provision abuses, the tendency of Congress to expand entitlements or even create new ones, whether on the tax side of the ledger or on the spending side, and the failure to recognize long-term unfunded liabilities.

The bill proposes several changes to address these problems. Concord likes changing from a concurrent resolution to a joint resolution. We think that makes a lot of sense. Realistically, however, the bill anticipates that sometimes a joint resolution might not be possible, to achieve, and so it provides fallback of a concurrent resolution.

I very much like the idea of streamlining the budget resolution to get away from what, frankly, are sort of hokey 20 functional categories are not very useful. It is kind of interesting to go through the tables and look at the functions, but they do not have anything to do with enforcement later in the game. Each functional category is a mixture of credit, mandatory, discretionary, all mixed up. While it is useful to have that information, it is not an enforcement tool.

So pare back the budget resolution to the things that really count, which are the big aggregates—spending, taxes, deficits and debt, or surpluses; and then your control areas—entitlements or mandatory, whatever you want to call it; defense, nondefense, and then this new idea of creating an emergency fund. I think that makes a lot of sense.

I agree with those who say it will take a little longer perhaps to reach agreement on a joint resolution. Even getting both ends of Pennsylvania Avenue to agree only on how much spending, and how much revenue there should be might not be done quickly. Therefore, Concord would favor a two year process. When a new Congress comes in, produce one budget plan at a summit at the beginning of the two year cycle; decide on what the aggregates are going to be. You can still have an annual appropriations sequence if you want to within that framework, but once every two years is often enough to produce a budget plan.

One thing for sure is, that a two year cycle would cut in half the chances for fiscal mischief. You would have the budget resolution locked in, and it would run for the duration of the Congress. So I wouldn't dismiss the two year budget out of hand.

I very much like the automatic CR. It changes the "or else" from one that says, "or else we will close down the government and blame it on you," to one that says, "or else you are going to be stuck with last year's level."

Frankly, there are going to be people who want more money than last year for this and less money than last year for that, and they are going to be stuck with last year's level if they can not get an agreement. From a taxpayer's point of view and the perspective of people who need government services, being stuck with last year's level is a lot better than some of the things that we have witnessed in recent years either with government close-downs or the gluttony of \$24 billion of emergency spending, most of which is not emergency, but merely the price that has to be paid to get out of town. An automatic CR avoids all of that.

I would suggest, though, that you might want to change the language when you set the automatic CR at last year's level not to count last year's emergency appropriations. If you had the proposed automatic CR this fall, for example, you would be stuck with last year's level, including most of that \$24 billion. So you might want to redefine that when you make up the bill.

Abuse of the emergency procedures has become the most egregious and flagrant disregard of the spirit of the budget process that there is. This loophole has become large enough to accommodate not only a Mack truck or a Sherman tank, but even an entire bachelor enlisted housing complex at a base in Bahrain. This is not the way to go.

There are two problems with emergency spending, an old one and a newer one. The old one is that we pretend we aren't going to have any emergencies next year, and so we don't appropriate any—or very much—money for them to occur. That is ridiculous. Scarcely a year goes by without a catastrophic fire, flood, drought, earthquake, tornado, hurricane somewhere in the Nation; and in America, we respond by helping the victims.

But rather than setting aside sufficient funds in advance in the Appropriations Committee through the appropriations process, we give disaster relief just the smallest maintenance diet; spend all the rest of the money that is allowed under the cap on other, higher priorities; and then when emergencies happen, say, "oh, my gosh, this is an emergency; we have to have still more money." Part of this is happening because the caps are so tight and you need this money for other things, so you spend it on other things, and then you have nothing left for legitimate emergencies.

So Concord likes the idea of peeling back out of the discretionary cap an emergency reserve fund. How much? I think the rolling five year average is as good as you are going to get. Then you put some definitions on when the resources can be released. If there is an emergency, then an allocation goes to the Appropriations Committee or the other appropriate committees, and the resources are released. That would help deal with the more recent budget hypocrisy, which is the newer problem of just adding on emergency spending because the caps are too tight.

That is simply what is going on. We really need to deal with this emergency procedure.

The temptation to create new entitlements or tax expenditures, or expand existing ones is much greater now that everybody thinks we have surpluses—the politicians, the press and the public. We have money to spend, so why can't we have entitlements? Concord Coalition believes that these permanent taxes on future resources are the chief budget problem. Appropriations are subject to limits called "caps," and spending for appropriated programs has to be debated each year; programs have to compete to justify their share of the pie.

Entitlements don't have to go through this process. They have been likened to appropriated programs that have died and gone to heaven. They just automatically get their money, even if you couldn't justify them in light of today's priorities.

The bill attempts to address this situation by subjecting new entitlements to annual appropriations. They would be annually appropriated. The bill would bar enactment of new entitlements lasting longer than 10 years. It would require oversight review of all programs, including existing entitlements, at least every decade. And it would require 10-year cost estimates to give an idea of where an entitlement is going. Finally, it would encourage reductions in existing entitlements by permitting the resulting savings to increase discretionary appropriations.

Ms. PHILLIPS. Regarding this last point, we would oppose the reverse, i.e., letting reductions in discretionary spending be used to pay for entitlement increases or be used to pay for tax cuts. Your former colleague Bill Frenzel, who was the Ranking Republican on the Budget Committee, used to remind me that "tax cuts are forever, but discretionary cuts last only until the next supplemental." So you are making a trade-off. You go back and revisit discretionary decisions every single year, and in the meanwhile continue to spend money on a permanent commitment even when the savings may long since have disappeared.

Spending the surplus is the really big new issue in front of us and why I think this bill is particularly well designed to grapple with this issue.

It is too tempting in an era of perceived surpluses to create new entitlements and enact tax cuts. The Concord Coalition believes that surpluses attributable to the Social Security Program should be reserved for that program. They should not be diverted to routine spending or used to pay for tax cuts.

But what about surpluses in the rest of the government's accounts? Here again, Concord strongly favors using the rest of government surpluses to reduce the public debt.

With the retirement of the baby boom generation looming only a decade off, having as small as possible a public debt will make it easier to cope with the enormous strains that our economy is going to face when that happens.

Second of all, reducing the debt frees money for private investment in things that will make us more productive, and as you saw on the business page of the Post this morning, productivity is where we get our higher wages and higher standard of living without setting off a round of inflation.

When the boomers retire, for each young person coming into the work force you are going to have somebody leaving for retirement.

You are going to need all of the productivity increases you can get because you are not going to be enlarging the size of your work force.

There has been some question whether the pay-as-you-go discipline on tax cuts and entitlement increases would apply when you have surpluses in the rest of the government. There have been letters from officials saying "yes", letters saying "no", letters saying, "we are not quite sure." H.R. 853 makes clear that pay-go still applies when there are surpluses. That is a good thing.

However, the bill would permit those surpluses to be added to the pay-go scorecard, and you could use those surpluses in the rest of the government accounts. One of Concord's concerns is that although we admit that this is a valid debate and there may be some things that you want to use surpluses for, like government investment in productivity (I am not sure that there are such things, but it is possible), also you could use surpluses to establish discretionary caps at higher levels than the freeze level allowed in this bill, which is unrealistically low.

Surpluses could be used, and here is one that I would probably favor: to prefund our obligations to pay Social Security and Medicare when the boomers retire. That would be a very responsible thing to do. But we are concerned that you would use the rest of government surpluses to fund long-term, virtually eternal commitments, maybe prescription drug coverage for everybody under Medicare, or long-term care, or something else that is fairly compelling. Then the surpluses would be smaller than you thought or, in fact, nonexistent.

When you think of what makes a surplus go away, it is probably a recession. So what do you do? Do you say, "sorry folks, we have a recession on, so we are going to take back that tax cut we gave you three years ago?" I don't think so.

The bill says if you do use the anticipated surpluses, you are going to have to have offsets. If the surplus goes away, you are going to have to come up with offsetting legislation to pay for the money that is not there anymore, or reverse your legislation and undo it, or you get a sequester. We have had sequesters before, and I would think that would give legislators a lot of pause before spending every penny of surplus. Concord would oppose using the surplus just for routine spending because it is easier to spend money than to say no, especially when people think that we have surpluses. Surpluses, if they occur at all, and we are not sure that they will materialize or last very long, are a rare and precious resource. Letting them trickle away through the lack of budget discipline would be the height of generational irresponsibility.

[The prepared statement of Ms. Phillips follows:]

### Statement of Martha Phillips, the Concord Coalition

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I am pleased to appear today in support of H.R. 853, a bipartisan bill to strengthen the budget process. I am representing the Concord Coalition, a nationwide, grassroots bipartisan organization dedicated to strengthening the nation's long term economic prospects through prudent fiscal policy.

#### **Background:**

Concord's co-chairs are former senators, Warren Rudman (R-NH) and Sam Nunn (D-GA). They, along with our approximately 200,000 members who hail from every state, have worked hard in recent years to help build a political climate that encourages elected officials to make the tough choices required to 1) balance the federal budget, 2) keep it balanced during times of peacetime prosperity, and 3) prepare for the budget problems that will occur as the nation's population becomes sharply older in coming decades.

Balancing the federal government's books is the single most effective policy we have to increase savings, which in turn are the key to long term economic growth. Savings provide the capital needed to increase the productivity of American workers, something that will become especially urgent when the retirement of the huge baby boom generation virtually halts growth in the size of the U.S. work force. With a fixed-size work force, economic growth and an improving standard of living will depend almost entirely on how much we invest in gaining additional output from each person working in our economy.

Concord believes that not only should we put the rest of the government's accounts into balance, we should also use the current economic, fiscal, demographic and political windows of opportunity to address the long-term Social Security and Medicare deficits that will accompany the aging of America. These looming and unsustainable deficits threaten to undo the hard work and fiscal discipline of recent years and undermine our potential for future economic growth.

#### **Budget process reform:**

Given this mission and set of concerns, it should be readily apparent why the Concord Coalition strongly supports establishing tight fiscal discipline procedures and enforcing them scrupulously.

The Congressional budget process that has been developed over the last couple of decades has helped enormously in improving fiscal discipline compared to the situation in the 1960s when there simply was no Congressional budget process and only the aversion to increasing the public debt to hold things in check. The president submitted his budget each year, Congress enacted appropriations, and in most election years, tax cuts. Sometime after the dust had settled, a report came from the Treasury Department adding up the damage. An obscure two-person staff attached to the Appropriations Committee was what passed for congressional scorekeeping and few people knew what they did or thought that it mattered.

Budget enforcement procedures enacted in 1974 have been continually refined through trial and error, the reconciliation process launched in President Carter's last year in office, Gramm-Rudman in 1985, mini-budget summits and establishment of discretionary and mandatory aggregates in 1987 and 1988, and the Budget Enforcement Act in 1990. These changes have helped Congress manage the political pressures inherent in our competitive democratic (small d) political system in which the rewards are for reducing taxes and delivering helpful benefits, services and public works are more immediate and direct than the distant, diffuse and indirect rewards for prudent financial management.

As the authors of H.R. 853 understand, budget discipline require observing not just the letter of the law, but also the spirit of the law. In other words, no matter how clever the budget mouse trap, it will not work without political will. But budget rules and disciplines can raise the hurdles and make it more difficult to fling fiscal probity aside. H.R. 853 proposes a number of very useful improvements in the evolving budget process and changes that are needed as the politics of surplus replace the politics of deficit.

The budget process is complicated, confusion and often confounding. The first Congressional budget procedures were drafted largely in response to Congress's dismay over the Nixon Administration's impoundment practices; and the intention of the budget process in the early years was not to reduce the growing deficit, but rather to bring information, rationality, and advance planning to Congressional enactment of spending and taxing authority.

Today, the budget process is first and foremost a tool of fiscal enforcement. It is a detailed set of rules about what can and cannot be done, how and where limits are set. As with discipline in almost any situation, it's understood that limits are, on balance, good for us. But we often don't like them when they get in the way of what we want to do. So the natural response is to test the limits in an attempt to get our way without getting caught.

Looking at the Congressional budget process as it is currently practiced, where are changes needed in order to establish and enforcement such limits? H.R. 853 addresses the very places where budget enforcement has broken down most flagrantly in the recent past – emergency spending, end-game tactics, scoring of federal insurance programs, creation of new entitlements, and lack of enforcement of the existing budget discipline rules.

#### **Budget format change:**

The budget process since 1974 has evolved from one that aimed at providing information to one that drives fiscal discipline. The 20 budget functions provide useful information, but they have nothing to do with budget enforcement. Instead, budget discipline is enforced through aggregate limits on direct spending, discretionary defense and discretionary non-defense spending, revenues, deficits and the debt.

H.R. 853 would simplify the budget resolution to these aggregate categories.

Agreements on large aggregates are often easier to reach than agreements on the component parts, since all parties can assume that their own highest priorities will be accommodated and someone else's will come at the end of the list if there isn't sufficient room to do everything. Parties to the agreements undoubtedly will have their own list of specific spending levels that they assume can be accommodated within the aggregates, and under the bill, budget functions will continue to be displayed in the committee report for informational purposes and will reflect the majority's assumptions.

However, agreeing at the beginning of the year on the enforceable totals for direct mandatory spending, discretionary defense and non defense spending, emergency spending and revenues is a vast improvement over the current process. These levels will function as decision-forcing limits. The issue is not "how much shall we spend?" but rather, "how shall we divide up the allowable resources?" The proposed change simply makes explicit what has become implicit as policy makers have gained experience with budget enforcement.

Concord is pleased to see that the proposed legislation continues to exclude Social Security revenues and benefit payments from the aggregate totals for revenue and spending. This is appropriate, since the Social Security surplus funds have too long been used to finance deficit spending by the rest of the government.

**Joint resolution:**

I personally have long advocated changing the budget resolution to a Joint Resolution that requires the President's signature. The allocation of constrained resources is a tough political process, and the earlier in the year that agreement can be reached on at least a general framework, the better. If the budget resolution continued to require function-by-function detail, the Congress and the White House would seldom be able to agree on a joint resolution, particularly during times of divided party control. However, even with different parties in control of different chambers or branches of government, it should be possible most years to agree on aggregates.

The bill provides that if agreement cannot be reached, Congress will fall back to the current practice of enacting a concurrent resolution, which does not require the President's signature. But if agreement can be reached on a Joint Resolution that the president signs, then both ends of Pennsylvania Avenue will be more likely to cooperate on enforcement, and less prone to driving Sherman tanks through loopholes.

Passage of a joint budget resolution signed by the president should also be of considerable help in managing the difficult end-game at the close of each session of Congress. Lately, the closing days of the session have become a very costly and unattractive combination of food-fight and budgetary chicken in which the aim of each side seems to be to inflict maximum political embarrassment on the other while getting as much as possible for one's own spending or tax priorities. In the melee, scoring doesn't have a chance to keep pace with the action. After the session is over and the dust settles, the results are toted up and the taxpayer finally gets an assessment of the damage. A joint budget resolution linked to strengthened enforcement procedures could help prevent these end-game spending gluts in the future.

The bill also provides for an automatic continuing resolution to provide funding in lieu of any regular appropriation bills that have not been enacted before the beginning of the fiscal year. An automatic CR should also result in eliminating the worst end-game practices, since the threat of shutting down the government will no longer be relevant. The bill would set the automatic CR level at the prior year's level. Thus some pressure would still exist for those who wished to see appropriations for particular programs set either higher or lower than the previous year to work out compromises that would result in a regular appropriation.

### **Emergency spending:**

Emergency spending, particularly appropriations at the end of the session, arguably has become the largest loophole in the Congressional budget process.

The current emergency spending provisions were enacted in 1990 when the Budget Enforcement Act was devised. Those of us who were in the room in 1990 recall that many long hours of bipartisan effort went into trying to write criteria for what would qualify as emergency spending. It seemed that for every definition that we attempted, someone could come up with an example that we all agreed was truly an emergency but somehow didn't fit the proposed definition, or an example that we all agreed was not an emergency but somehow did seem to fit the proposed definition. At last it was agreed that since Congress and the White House undoubtedly would observe the spirit of the budget process, it was sufficient to say that an emergency was whatever both Congress and the President designated it to be. That has not worked.

One serious problem has been that not enough is appropriated through the conventional appropriations process to finance adequate the disaster relief programs. Scarcely a year goes by without a devastating fire, flood, drought, earthquake, tornado, hurricane somewhere in the nation. About the only things that are predictable about such disasters is that they will occur, and that Americans will willingly provide assistance to the devastated victims. Over time, the cost of responding to these tragedies is also roughly predictable. We don't know what disaster or emergency lies ahead, but we must assume that there will be one. Yet, year after year, insufficient funds are appropriated through the basic 13 appropriations bills to finance even an average level of disaster spending. All the allocated discretionary funding get used up for other purposes. Then when disaster strikes, it's too late to say, "we should have kept some funds in reserve." The spending limits have already been reached and it is necessary to exercise the emergency spending provision.

Another serious problem is that in the last several months, all sense of restraint and proportion regarding the emergency designation have broken down. The glut of emergency spending at the end of the 105th Congress was a major breach of the spirit of the budget process and resulted in a hemorrhage of tens of billions of dollars of non-emergency spending financed out of the Social Security surplus. The supplemental appropriation currently in process, which responds to unanticipated needs for defense spending related to the Kosovo situation, to aid Hurricane Mitch victims in Central America is showing every sign of turning into an undisciplined "pile on." The amounts requested by the Administration have been doubled, with most of the extra funds going to pay for defense spending that normally would be provided in the Fiscal Year 2000 appropriations process. Since discretionary appropriation limits are extremely tight, Congress is succumbing to the temptation to use the emergency spending loophole to cram in regular defense spending now in a way that doesn't count toward the appropriations limits. Particularly egregious provisions are those that expand entitlement spending by rolling back military pension reforms. Any notion of enacting offsets to pay for the phony emergency items seems to have long since been forgotten. The emergency spending procedures, in short, have given way to sheer budget hypocrisy.



H.R. 853 proposes several useful changes to address the situation. The automatic increases in discretionary and mandatory limits to accommodate emergency spending would be repealed and any spending that exceeds the enforceable limits in mandatory and discretionary spending would result in a sequester. A clear procedure for determining whether an emergency exists would be established along with a definition of what constitutes an emergency: namely that it is needed to address "loss of life or property, or a threat to national security," and that it is unanticipated, which is defined as sudden, urgent, unforeseen and temporary. As part of the budget resolution, a reserve fund would be set aside in advance of the appropriations process to finance emergencies up to a level equal to a 5-year rolling average. Finally, a fall back procedure would be established to deal with truly extraordinary emergency spending beyond what can be financed through the reserve fund.

In combination, these changes would help to restore budget discipline in the case of emergency spending, and the Concord Coalition endorses their enactment. Indeed, in terms of sheer dollar amounts, the proposed package of emergency spending provisions may be the most important part of the bill.

#### **Long-term insurance liabilities:**

The current scoring procedures do not accurately reflect the long term federal liabilities associated with various government insurance programs such as bank and credit union deposit insurance, crop insurance, flood insurance, pension insurance, political risk insurance (OPIC) and federal employees' and veterans' life insurance. The premiums paid by purchasers of the insurance are booked immediately and appear to improve the government's bottom line. But the government's obligation to make payments in satisfaction of insurable events do not appear on the government's books until they occur. If premiums are too low to pay insurance benefits when they come due, the government must cut other spending, raise taxes, or borrow from the public to meet those obligations.

H.R. 853 proposes setting up a new scoring and accounting system for federal insurance programs to deal with these problems. It would be similar in many respects to the scoring that was devised for federal credit programs in 1990. Insurance programs would, in essence, be subject to accrual accounting, and methods would be developed for estimating the government's long-term liabilities and integrating these estimates into the budget process.

Experience with developing a new accounting system for federal credit programs shows that while such methodology can be developed and successfully implemented, it is not easy to do so. Nevertheless, the attempt should be made to update scoring methodology for federal insurance programs.

The largest federal insurance programs – Social Security and Medicare – are specifically exempted from these new procedures. Yet these programs, which will be severely impacted by the aging of our nation's population in the next few decades, have enormous unfunded liabilities, amounting to XX trillion, if not more. The bill does propose that both OMB and CBO report on long-term budgetary trends for these large entitlement programs, over a 75-year horizon, analyzing how present law and proposed changes would affect spending, revenues, deficits or surpluses. However, much of that information is already available and has little impact on the willingness of either branch of government to address the unfunded liabilities of these two large programs.

#### **New and existing entitlements:**

Entitlement programs are the most difficult to manage under the budget process since they are guaranteed what ever funds are required to meet their obligations, sometimes long after current priorities would support them. In contrast, discretionary programs must have their funding renewed annually or every few years, and appropriations for each discretionary program must compete for scarce resources against all the other valid and attractive uses for the same money. Someone once suggest a working definition of an entitlement: "a discretionary program that has died and gone to heaven. It always gets its funding, never has to go to the Appropriations Committee, and never has to justify why it should get money ahead of other programs."

H.R. 853 addresses this situation in several ways. New entitlements would be subject to annual appropriations. Legislation authorizing new entitlements lasting longer than 10 years would not be allowed. If the Appropriations Committee offsets new discretionary programs with reductions in entitlements, it would be held harmless through cap and paygo scorecard adjustments. Creation of new entitlements or expansions of existing ones would have to be justified by the Budget Committee. And an oversight review of all programs, including entitlements, would be required within a 10 year time frame

#### **Spending government surpluses:**

The prospect of on-budget surpluses raises an entirely new dimension to the budget process. The Concord Coalition is very concerned about the large unfunded liabilities in the Social Security and Medicare programs when baby boomers retire and begin claiming benefits. We strongly oppose using Social Security surpluses to finance deficits in the rest of the government.

However, the use of surpluses resulting from revenues and expenditures in the rest of the government, excluding Social Security, are a different matter. There is room for a legitimate debate over how these "rest of government" surpluses should be used. Concord would assign highest priority to reducing the public debt. We believe this would increase national savings available for investments in future productivity and would have a greater payoff than most tax cuts or government spending. Others disagree and would prefer to use "rest of government" surpluses for tax cuts, investments in education, infrastructure, research and development that promise to spur economic growth in the future. And some would choose to use the money to provide services that would benefit citizens today.

H.R. 853 allows for the use of "rest of government" surpluses. Concord does not oppose this provision. However, we are concerned that spending increase or tax cut commitments might be made in anticipation of budget surpluses that either do not materialize at all or are not as large as expected. The authors of the bill have anticipated this by providing that if legislation is enacted that exceeds the actual surpluses, a sequester will occur unless the shortfall is made up.

#### **Other provisions:**

The bill contains a number of other helpful and useful provisions for improving budget discipline and providing timely information. The requirement that the Congressional Budget Office produce cost estimates of conference reports is particularly helpful. Applying budget enforcement rules to legislation that somehow makes it to the floor without being reported from committee is another useful provision.

A 60-vote requirement in the Senate raises the hurdle for bypassing budget enforcement points of order, but in the House, rules for consideration of legislation frequently waive budget enforcement points of order, and there is no recourse for Members who wish to enforce the budget process other than to defeat the rule. There is no point in having budget enforcement rules if they are constantly ignored. The bill addresses this situation by requiring the Rules Committee to justify any rule that waives budget points of order. Until such justifications become pro forma, this provision might have a dampening effect on ignoring budget discipline.

Mr. LINDER. Mr. Greenstein.

**STATEMENT OF ROBERT GREENSTEIN**

Mr. GREENSTEIN. Thank you, Mr. Chairman. I think I am the critic of the bill on the panel. I should start by saying that I think there are a number of useful provisions in the bill that improve the budget process, such as the changes in the treatment of Federal insurance programs. But I think there are a number of provisions that would pose serious problems and that the problems outweigh the positive aspects, and therefore I am a critic of the bill as a whole.

The things I am most concerned about, a number were just alluded to by Martha Phillips in her testimony, and I want to start where she left off and talk about the changes that the bill would propose in the pay-as-you-go rules.

As she noted, H.R. 853 would essentially allow projected surpluses to be used instead of real offsets to fund tax cuts or entitlement increases. I think there are two principal concerns there. The first is that both from the standpoint of big picture government policy, but also from the standpoint of future deficits down the road when the baby boomers retire, the most important decisions we have are what are we going to do to ensure the long-term solvency and fiscal stability of Social Security and Medicare, and Medicare is part of the on-budget, not the Social Security budget.

Most experts I know think that to resolve the Medicare solvency problem, because the hole is so great, we are going to need a combination of reforms that at the present time are maybe too controversial to pass in the program, and additional resources, that we are going to need both.

I am concerned about the provision of H.R. 853 that would allow the entire non-Social Security surplus to be consumed by tax cuts and entitlement increases before we have resolved Social Security and Medicare. We may find to get bipartisan agreement, we need a portion of the on-budget surplus for, as Martha said, prefunding some of Social Security and Medicare. It is not that I am suggesting one can't touch any dime in the on-budget surplus, but to say, as this bill does, that 100 percent of the projected surplus can be used before we settle Social Security and Medicare I think is imprudent.

Now, adding to the imprudence is the fact that projected surpluses, as Martha just said, may not materialize to the degree that CBO projects. CBO has a very important chapter in its new report about how uncertain its projections are. CBO notes that if its projections five years into the future are off by the average amount that its projections five years into the future have been off as a percentage of GDP for the last 15 or 20 years, then its projections for five years from now could be too high or too low by several hundred billion dollars a year.

For 2004, CBO projects a \$63 billion surplus in the non-Social Security budget. Let's assume that they were off by \$60 billion, a fraction of the average that they have been off 5 years in a row. Let's assume that H.R. 853 passed and Congress passed tax cuts or entitlements increases that consumed the 63 billion. We get out

to 2004, and you either have to raise taxes or cut other entitlements or lower the discretionary caps by \$60 billion a year, which is larger than the first-year savings of any budget plan, including the Contract with America budget plan which Congress has considered. No plan has ever cut as much as \$60 billion in the first year.

Alternatively the bill says if you couldn't raise taxes or make these cuts, there would be a sequester that would be concentrated in certain programs. A \$60 billion sequester would result in complete elimination for 2004 of payments in farm price supports, crop insurance, the social services block grant and the 4 percent payment to Medicare providers. You wouldn't allow that to occur. So at the end of the day, as sometimes happened when there were big sequesters threatening under Gramm-Rudman in the late 1980s that the Congress and the President couldn't tolerate, we changed the rules, and we allowed the deficit to return.

If one is to change the rules so that on-budget surpluses can be used to finance without any other offsets tax cuts or entitlement increases, I think we should very seriously have a limitation, and here is an off the top of the head thing. Maybe we could say you can use to finance tax cuts, or entitlement increases 80 or 90 percent of the projected surplus for the first year, then 70, then 50, then 30, then 10. But to say that a projection eight years out in the surplus, the whole thing can be used now for entitlement increases and tax cuts when we have no idea how much of that is going to materialize I think is very fiscally imprudent.

The other major problem that I see with the bill is that although this is not the intention, I am sure, of the authors, I think it would have the effect of squeezing discretionary spending. As Martha suggested, the level of the caps is already unrealistic politically.

First, I think the aspect of the bill that would effectively allow lowering discretionary caps in order to fund tax cuts or entitlement increases is unwise for the very reason Bill Frenzel mentioned that Martha quoted: Discretionary changes are temporary; tax cuts and entitlements are permanent.

This is aggravated in the bill by a provision that says that in computing the amount of the projected surplus for the next ten years, CBO is to assume that once the caps expire, the discretionary spending is just frozen all of the way out.

If you compare the discretionary spending assumptions under H.R. 853 to the current CBO baseline, they are \$436 billion lower over the next ten years because they assume that we have the caps through 2002 which go down, and then we have a hard freeze at the 2002 level through 2009.

My purpose is not to debate for discussion purposes what is a cut and what is an increase one should or should not adjust for inflation, but the fact of the matter is that Congress is not going to pass appropriations bills that are frozen ten years in a row. A ten year freeze at the current CBO inflation assumptions is a 23 percent real cut in services by the tenth year. That is not going to happen. And by using that assumption to compute the surplus, we artificially inflate the projected surplus, which can lead to too big a tax cut, too big of entitlement increases passing, and then we get to the outyears and we can't sustain the discretionary levels. Maybe the economy has weakened and our budget estimates are off. We have

seen in the last several years how uncertain revenue projections are. We have just learned in the last week that the hoped-for July surprise this year is probably not going to happen, and we get out there and either of several things could happen.

Mr. LINDER. Excuse me. I am leaving to go vote, and Mr. Hastings will act as pro temp Chairman.

Mr. GREENSTEIN. The surpluses are now gone, and one cannot raise the discretionary caps, and we can't meet some basic needs in defense and basic areas.

Alternatively, the Congress could raise the discretionary caps, but that would trigger a sequester in Medicare and farm price support payments and the like. Or the most likely outcome, we would raise the caps, change the rules and run the deficits.

So for these reasons, and one or two other quick ones and then I will conclude, I am concerned with the delays that this would cause in appropriations bills. I think it is unwise to repeal the provision of law that says if there isn't a budget resolution by May 15th, that appropriations bills can start to move. I think that is particularly unwise in years in which there is a discretionary cap in place. In years in which there is a discretionary cap already in place, the budget resolution is largely superfluous for purposes of discretionary spending, and if the President is of one party, and Congress is of another party, and they can't work out an agreement on budget resolution until August or September, the appropriators should not have to wait that long to start to move a bill.

I am also concerned that the automatic continuing resolution is a year-long automatic continuing resolution. It is one thing to say if an agreement cannot be reached by September 30, there is an automatic continuing resolution for 30 days, but to have an automatic continuing resolution for a year long makes it too easy for Congress never to work out an agreement on the appropriations bill and just have the auto CR take effect. Even if you want to freeze the overall discretionary level for the bill as a whole, in any appropriations bill from year to year, some programs should be cut, and some should be increased. Needs change. To have an automatic year-long CR I think reinforces the status quo and makes it unlikely that we will adjust to needs as they change.

Finally, the lockbox provision in the bill goes too far. It provides that if either House passes a reduction in an appropriations bill, the amounts of the reductions must be averaged, and the discretionary caps are lowered by that amount for all years in which there is a cap. This means if there is a one-time pork barrel project, and you want to cut it, you can't cut it without lowering the discretionary caps for all of the years for which a cap remains. That leads you to either of two results. It is either too hard on the discretionary caps, or it makes it harder to pass cuts in projects for which otherwise you would have a majority to vote.

Let's suppose you have a pork barrel project, except that within that majority you have people that don't want to cut a one-time project if it means a cut in the discretionary caps for 5 years. So for that reason they vote against it, and you can't get a majority to cut the pork barrel project.

To conclude, I think there are a number of serious problems in the bill, and while I think there are some useful provisions, I think

the serious problems outweigh the useful provisions, and if one had to either move the bill as a whole or not move it, I think we would be better off not moving it. I think it would create more problems than it would solve. Thank you.

Mr. LINDER. Thank you.

[The prepared statement of Mr. Greenstein follows:]

**TESTIMONY OF ROBERT GREENSTEIN**  
**Executive Director, Center on Budget and Policy Priorities**  
**Before the House Rules Committee**  
**May 12, 1999**

I appreciate the invitation to testify before the committee. I am Robert Greenstein, director of the Center on Budget and Policy Priorities. The Center is a non-profit, non-partisan policy institute here in Washington that specializes in fiscal policy and in policies and programs affecting low- and moderate-income families and individuals. The Center is funded primarily from foundation grants and receives no funding from any part of the federal government. By way of background, I also would note that in 1994, I had the privilege of serving with distinguished Members such as Rep. Goss on the Kerry-Danforth Bipartisan Commission on Entitlement and Tax Reform.

Some of the provisions of H.R. 853, the Comprehensive Budget Process Reform Act, would make useful improvements in the federal budget process. I would take special note of the legislation's proposed changes in the budgetary treatment of federal insurance programs.

Unfortunately, the legislation also contains provisions that would have quite undesirable effects. Various provisions of H.R. 853 could make the budget process less efficient than it is today and lead to long delays in action on appropriations bills. H.R. 853 also could lead to larger reductions in discretionary programs than the reductions already envisioned under the 1997 Balanced Budget Act. In addition, it could lead to automatic cuts in Medicare and other programs during economic slowdowns and weaken budget mechanisms that are preserving budget surpluses which may turn out to be needed for Social Security reform. Overall, I believe the legislation would damage the budget process significantly and that its drawbacks substantially outweigh its advantages. I would recommend against enacting this legislation.

- The bill would be likely to squeeze discretionary programs inordinately. It would likely have this effect because of the combined effect of a number of features of the legislation. H.R. 853 would effectively allow the caps on discretionary spending to be reduced to pay for tax cuts and entitlement expansions. It also would lower the discretionary caps when either the House or Senate passed an amendment to an appropriations bill reducing funding for a discretionary program.
- The bill would likely lead to delays in consideration of appropriations bills because it would repeal the provision of current law allowing appropriations bills to be brought to the House floor after May 15 if a budget resolution has not yet been approved; it would bar floor action on appropriations bills until work on the budget resolution has been completed. Moreover, the bill would lengthen the time it takes to finish work on a budget resolution because it would convert the resolution into a joint resolution that requires a Presidential signature.

- Under H.R. 853, if projected surpluses are used to pay for tax cuts and the surpluses subsequently fail to materialize as forecast — which could easily happen if the economy performs less well than forecast or tax cuts turn out to be more expensive than was assumed at the time they were enacted — cuts in Medicare, student loans, farm price supports, and various other entitlements would be triggered through the sequestration process.
- The bill would alter the “pay-as-you-go” rules, allowing projected surpluses in the non-Social Security budget to be used to finance tax cuts and entitlement increases before Social Security reform is approved and before it is known whether a portion of these funds are needed to fashion Social Security or Medicare solvency legislation that can secure majority support in both houses.

I will elaborate on these points below. Before doing so, I would like to caution that we should be very careful about making large changes in the budget rules established under the Budget Enforcement Act of 1990. While it is sometimes said that the budget process is broken, most budget experts I know think otherwise and believe the Budget Enforcement Act of 1990 has been remarkably effective. The regimen it established of discretionary caps and pay-as-you-go requirements has been instrumental in helping us get from multi-hundred billion dollar deficits as far as the eye can see to budget surpluses.

When the BEA was enacted, some predicted the discretionary caps would routinely be busted by large amounts and the pay-as-you-go requirements would not last long. Both predictions proved mistaken. That the emergency designation of the law was stretched last fall and again in the current Kosovo supplemental reflects the fact that the 1997 budget agreement set unrealistically austere caps, not that the process as a whole has broken down. Moreover, changes to tighten the procedures for handling emergencies and making emergency designations can be instituted without the more sweeping changes that H.R. 853 would make.

Let me turn to what I regard as the principal shortcomings of the legislation.



### Impact on Discretionary Programs

Discretionary programs constitute a declining share of the budget. At \$575 billion in fiscal year 1999, discretionary spending accounts for 34 percent of the budget and seven percent of the economy (i.e., of the Gross Domestic Product). The Congressional Budget Office projects that if discretionary spending stays within the caps through 2002 and grows with inflation thereafter, discretionary spending will decline to 29 percent of the budget and five percent of GDP by 2009. By contrast, ten years ago in 1989, discretionary spending constituted 43 percent of the budget and nine percent of GDP.

Various provisions of H.R. 853 would directly or indirectly place additional downward pressure on funding for discretionary programs. The bill contains a "lock-box" provision that would cause reductions in the discretionary caps. After the House and Senate had completed floor action on any appropriations bill but before conference on the bill, the total amount of funding cuts each chamber had approved in floor action on the bill would be averaged.<sup>1</sup> The discretionary caps would be reduced by this average amount for the fiscal year in question, as well as for all succeeding years for which a cap has been established. These cap reductions would be instituted even if one house had approved a cut by a narrow margin and the other house had decisively rejected it. As a result, one house's decision to cut a bill would force the other house to lower total appropriations without any concordance from that other chamber through normal conference procedures.

In addition, the lock-box mechanism could lead the discretionary caps to be reduced by more than the amount needed to "lock away" savings created by cutting a particular project. Amendments reducing funding for an appropriations bill would result in a reduction in the discretionary caps not just for the fiscal year covered by the appropriations bill but for each fiscal year after that for which there is a statutory cap. If appropriations are cut for a one-time project — say, providing fewer funds for a NASA space-shuttle procurement or a particular construction project — future cuts in other programs would be required.

(Ironically, one effect of this provision might be to make it more difficult to reduce low-priority spending, an effect that is the opposite of what the bill's sponsors seek to achieve. Suppose an amendment to cut a big-ticket item, such as a NASA procurement, is offered. Those who favor the cut are likely to fall into two groups — those who want to use the savings to shrink government and those who want to shift the funds to other areas. Under current rules, both groups will join to vote for the cut. Under the procedures H.R. 853 would establish, the two groups may divide. If the amendment making the cut places the savings in the "lock-box," many in the "reorder priorities" faction may oppose it, as it will shrink the overall resources available

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<sup>1</sup> A Member offering an amendment on the House or Senate floor could specify that the savings the amendment produced not go into the lock-box.

for discretionary programs. If the amendment does *not* place the savings in the lock box, the “cut government spending” faction may oppose it. The result could be that fewer amendments to cut low-priority spending are approved and more, rather than less, of the *status quo* is maintained. If that occurred, the provision would retard efforts to reorder budget priorities.)

#### **Using Discretionary Cuts to Finance Permanent Tax Cuts or Entitlement Increases**

H.R. 853 also would enable tax cuts and entitlement expansions to be financed by reductions in the discretionary spending caps, since it would allow non-Social Security surpluses to be used for tax cuts and entitlement increases, and reductions in the discretionary caps would enlarge these surpluses. Allowing tax cuts and entitlement expansions to be financed by reducing the discretionary caps raises several concerns.

The discretionary caps typically are set for only a few years at a time; currently, the caps are in place through 2002. Lowering the caps would thus assure savings for only several years. Tax cuts and entitlement expansions, by contrast, are usually permanent and often grow in cost over time. Allowing policymakers to pay for permanent tax cuts and entitlement expansions with reductions in the discretionary caps that provide short-term savings could lead to significantly smaller surpluses or larger deficits in years to come. In addition, because reducing the discretionary caps for future years does not itself entail cutting specific programs, it could become too easy for policymakers to pay for popular tax cuts or entitlement increases by lowering the discretionary caps.

Moreover, because the effects of reducing the discretionary caps are not felt immediately, these caps could be lowered by unrealistic amounts to pay for tax cuts, with the result that the caps subsequently are raised back up and the anticipated savings not secured.

The savings in discretionary programs assumed as part of the 1997 budget agreement may be a case in point. The 1997 budget agreement instituted caps to keep discretionary spending at a virtual freeze over five years, requiring substantial reductions in discretionary programs in inflation-adjusted terms, with these reductions concentrated in the last several years of the five-year budget period. It now appears the caps are unrealistically tight and will probably be raised.

Exacerbating this problem, the bill specifies that in determining the size of the budget surplus — and hence the amount available for tax cuts and entitlement increases — a “baseline” must be used that assumes discretionary spending is frozen in all future years for which a statutory cap is yet to be established, with no adjustment for inflation. This represents a departure from current practice under which baseline levels for discretionary spending for future years without a cap are set equal to the prior year’s levels, *with* an adjustment for inflation. Under H.R. 853, the baseline would assume large reductions over time in the levels of services that discretionary programs would provide. For example, using CBO’s inflation assumptions, a baseline that contains no adjustment for inflation would assume a 12 percent cut in service levels

after five years and a 23 percent cut by the tenth year.<sup>2</sup>

Altering the baseline procedures that have been in place for nearly a quarter of a century and eliminating inflation adjustments in projecting discretionary spending levels, as H.R. 853 does, will make budget surpluses look much larger and hence enable tax cuts to be substantially bigger. This one provision of the bill would artificially swell the non-Social Security surplus *by more than \$436 billion over the next 10 years*. (See Table 1.) This could lead to much larger tax cuts and entitlement increases that, in turn, could lock in frozen or otherwise low levels of discretionary spending, necessitating substantial reductions in the levels of service that discretionary programs provide, since the tax cuts or entitlement expenses would have consumed the resources needed to support discretionary appropriations at a more adequate level.

In fact, under H.R. 853, if tax cuts had been approved that consumed the on-budget surplus, subsequent action to raise the discretionary caps to facilitate the passage of appropriations bills could trigger a sequester of Medicare and other entitlement programs. This would make it very difficult to raise the discretionary caps if the caps proved excruciatingly tight. In short, H.R. 853 could lead to deep cuts in discretionary programs.

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<sup>2</sup> Some historical background may be of use here. After passage of the Congressional Budget and Impoundment Control Act of 1974, decisions were needed as to how to construct baselines for discretionary programs. A debate ensued concerning whether the baseline for discretionary program spending should reflect the prior year's level adjusted for inflation *and population* or the prior year's level adjusted only for inflation. Some budget experts, such as Robert Reischauer — then a high-ranking CBO official — argued the baseline should represent the funding level that would maintain current levels of service per person — and, hence, that the baseline should adjust for both inflation and changes in population. The course of adjusting only for inflation was adopted. Current baseline procedures show the levels needed to maintain the *general* purchasing power of discretionary programs; under these procedures, discretionary spending as adjusted for inflation declines over time on a *per capita* basis.

## DISCRETIONARY SPENDING: CURRENT BASELINE, COMPARED TO FROZEN BASELINE UNDER NUSSLE-CARDIN-GOSS PROPOSAL

Fiscal Year	2002	2003	2004	2005	2006	2007	2008	2009	10-year total 2000 to 2009
	(in billions of dollars)								
<b>Total discretionary spending</b>									
Current baseline <sup>1</sup>	\$568.4	\$583.2	\$598.3	\$613.9	\$629.9	\$646.2	\$663.0	\$680.3	\$6,130.7
Nussle-Cardin-Goss proposed baseline <sup>2</sup>	\$568.4	\$568.4	\$568.4	\$568.4	\$568.4	\$568.4	\$568.4	\$568.4	\$5,694.7
Nussle-Cardin-Goss baseline, as dollar reduction from current baseline	\$0.0	-\$14.8	-\$29.9	-\$45.5	-\$61.5	-\$77.8	-\$94.6	-\$111.9	-\$436.0
Nussle-Cardin-Goss baseline, as percentage reduction from current baseline	0.0%	-2.5%	-5.0%	-7.4%	-9.8%	-12.0%	-14.3%	-16.4%	-7.1%

<sup>1</sup> The current baseline assumes that discretionary spending will be at its capped level while the caps are in place, and will grow with inflation starting in 2003, when there are no caps.

<sup>2</sup> Under the Nussle-Cardin-Goss proposal, the baseline would assume that discretionary spending will be at its capped level while the caps are in place, and be frozen at the prior year's levels starting in 2003, when there are no caps.

**Delays on Appropriations Bills**

H.R. 853 would be likely to lead to lengthy delays in action on appropriations bills. The appropriations committees would be prevented from sending appropriations bills to the House floor until work on the budget resolution had been completed. By contrast, current budget rules allow the House Appropriations Committee to send appropriations bills to the floor if action on the budget resolution has not been concluded by May 15.

In addition, the bill would change the budget resolution from a concurrent resolution to a joint resolution. Getting the two houses of Congress to agree on a budget resolution has often proved to be a lengthy process even when the same party controls both houses. Developing a budget resolution that also must win the President's approval and signature, and would have the force of law, almost certainly would be a lengthier undertaking. (H.R. 853 would allow a concurrent resolution to be used instead of a joint resolution if a joint resolution had passed Congress and been vetoed by the President.)

H.R. 853 consequently would make the process of passing a budget resolution more difficult and time consuming, while barring appropriations bills from coming to the House floor until the budget resolution had been approved, regardless of how long that might take. In many years, floor action on appropriations bills probably would not be able to commence until late in the year. In years in which budget agreements are delayed, the appropriations committees could lose months of valuable time and find themselves under great strain to put together and pass bills in compressed timeframes late in the year.

H.R. 853 would bar action on appropriations bills prior to approval of a budget resolution even if statutory caps are in place on discretionary spending. Yet such caps make the budget resolution largely superfluous insofar as discretionary spending levels are concerned. When caps are in place, there is little reason to delay appropriations actions for long periods until a budget resolution is adopted; most budget resolutions simply adopt the discretionary caps already in law. This aspect of the legislation seems particularly ill-advised.

#### **Automatic CR**

H.R. 853 also could make it more difficult in another respect to pass appropriations bills. It would establish an "automatic continuing resolution" that would maintain funding at the prior year's level for programs in appropriations bills not enacted when a fiscal year commenced. The automatic CR would not expire after a few weeks or months, but would last for the full fiscal year unless superseded by passage of the appropriations bill in question.

Although the automatic CR provision is intended to avert government shutdowns, its principal effect could be to make it more likely that Congress would fail to work out agreements on controversial appropriations bills because a year-long CR would kick in automatically. The fact that the automatic CR could remain in effect for a full year, rather than expiring after a few weeks as most current CRs do, would ease pressure to work out agreements on regular appropriations bills. Moreover, the automatic CR provision could encourage minority Senate factions of 41 or more Senators to use filibusters to block appropriations bills to which they objected, since doing so would not threaten to disrupt government operations.

The result could be that automatic CRs would begin to supplant some appropriations bills. If so, the effect would be unfortunate. Relying upon automatic CRs rather than passing regular appropriations bills would reduce government efficiency and effectiveness since it would keep Congress from addressing changing priorities. Funding levels for programs covered by automatic CRs would be stuck at the prior year's level rather than increased for some programs and decreased for others to reflect changes in need. Permanent CRs frustrate efforts both to fund promising new initiatives and to pare back less-effective, outdated, and less-important programs. If this provision of the H.R. 853 led to more reliance on CRs and fewer enacted appropriations bills, the *status quo* would be reinforced at the expense of more responsive and effective government.

#### **Effects on Social Security Reform**

The "pay-as-you-go" budget rules currently in place require that entitlement increases and tax cuts be paid for with reductions in other entitlement programs or revenue-raising measures. These rules apply whether the budget is in deficit or surplus. Enacted in 1990, the pay-as-you-go

rules have played a large role in eliminating deficits and, over the past year, in preserving projected surpluses.

H.R. 853 would alter these rules to allow policymakers to use non-Social Security surpluses to finance tax cuts and entitlement increases. Offsetting tax increases or entitlement reductions would not be needed. Although a provision of this nature may ultimately make sense, enacting it *now* could make it more difficult to reform Social Security and Medicare.

Plans to restore long-term Social Security and Medicare solvency may require more resources than the Social Security surplus itself provides; some temporary general revenue transfers from the non-Social Security surplus to the Social Security and/or Medicare trust funds may be necessary to fashion solvency legislation that can pass. If action is taken to alter budget rules so the non-Social Security surplus can be consumed by tax cuts and entitlement increases *before* legislation restoring Social Security and Medicare solvency is approved, resources that may prove necessary for solvency legislation may disappear. That could make it more difficult to secure agreement on Social Security and Medicare legislation. (It also could mean that whatever Social Security and Medicare solvency legislation ultimately is enacted would have to contain larger benefit reductions than might otherwise be the case, because resources that could have been used to bolster the trust funds would be gone.)

#### **Sequesters If Surpluses Do Not Materialize**

This provision of the bill also poses another problem. Projected surpluses in the non-Social Security budget would essentially be used as *contingent* offsets for tax cuts or entitlement increases. If the surplus for a fiscal year subsequently turned out smaller than had been projected, the tax cut or entitlement expansion financed from the projected surpluses would no longer be considered to have been fully financed. To secure the needed financing, a sequester that cut Medicare and other various entitlement programs (including guaranteed student loans, the child support enforcement program, the social services block grant, farm price supports, and crop insurance, among others), would be triggered unless Congress and the President acted swiftly to fill the financing hole by cutting entitlement programs, raising taxes, or lowering the discretionary caps.

This provision of the H.R. 853 poses dangers to Medicare and various other entitlements. Policymakers would pass permanent tax cuts and/or entitlement increases based on projections of surpluses that could prove too optimistic. CBO and OMB deficit and surplus projections have been off by large margins in recent years, underestimating deficits substantially in some years and overestimating deficits or underestimating surpluses in others. If this provision of the bill becomes law and paves the way for large tax cuts this year, but surpluses subsequently turn out much smaller than current projections assume, Medicare and other entitlement programs could face large across-the-board cuts unless Congress acted swiftly to pass deep program reductions or

sizeable tax increases.

For example, CBO's January 1999 forecast shows a \$63 billion non-Social Security surplus in 2004. Congress might pass a tax cut that costs \$63 billion in 2004 without any offsets and assume the surplus would cover it. Suppose that when 2004 arrives, however, the non-Social Security surplus for that year is only \$5 billion (not counting the effects of the tax cut). CBO deficit and surplus estimates made five years in advance have, on average, been off by more than that amount.<sup>3</sup> If this occurred, the President would have to order an across-the-board cut of \$58 billion unless Congress passed legislation cutting programs or raising taxes by that amount.

A \$58 billion sequester would be larger than the biggest first-year savings ever considered in any congressional budget plan of the last two decades. It would cut Medicare provider payments by four percent and entirely eliminate a number of programs, including farm price supports, crop insurance, the Social Services block grant, and payments to states for the child support enforcement program.

This would be particularly problematic for another reason as well. One of the most common reasons a surplus projection can turn out to be too high is that the economy has slowed since the projection was made. During economic slowdowns, revenues are lower than forecast, while expenditures for unemployment insurance, food stamps, and other programs are higher.

Most economists agree that cutting spending or increasing taxes when the economy is weak can push a faltering economy into recession. This, however, is precisely what would be required under H.R. 853 if a large tax cut or entitlement increase were enacted on the basis of projected surpluses but the surpluses failed to materialize because the economy weakened. Congress would have to raise taxes or cut spending — or an automatic across-the-board spending cut would occur — while the economy already was heading south.

This feature of H.R. 853 would essentially resurrect one of the components of the 1985 Gramm-Rudman-Hollings law most responsible for that law's failure. The Gramm-Rudman-Hollings legislation established fixed deficit targets, enforced by across-the-board cuts if the targets were missed. It ignored the fact that because deficits swell when the economy slows and for other reasons beyond policymakers' control, the law required deepening cuts as the economy weakened. As a result, large sequesters would threaten, especially when the economy could least absorb them. Since Congress and the President could not tolerate large cuts when the economy weakened or when deficit targets were missed by large margins for other reasons beyond policymakers' control, they would engage in large-scale budget deception to make it appear as though deficit targets would be met when everyone knew otherwise, and ultimately, when all else

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<sup>3</sup> See Congressional Budget Office, *The Economic and Budget Outlook: Fiscal Years 2000-2009*, January 1999, p. 81.

failed and crisis loomed, they would change the targets. Eventually, the unsuccessful Gramm-Rudman-Hollings process was replaced with the much more realistic and successful procedures the Budget Enforcement Act of 1990 established. The BEA has maintained and enforced fiscal discipline without requiring fiscal retrenchment when the economy weakens or deficit forecasts become more adverse due to factors that policymakers cannot control.

The problems that this feature of H.R. 853 could cause would not be limited to periods when growth was slowing. For example, tax-cut legislation could turn out to cost more than projected because inventive tax lawyers and corporate finance departments found ways to create tax shelters Congress had not intended. If tax-cut legislation turned out to cost more than forecast and hence was not fully offset, H.R. 853 could trigger a sequester of Medicare and other entitlements. The sequestration would not touch the tax provisions that had caused the problem.

CBO and OMB forecasts of future surpluses also could prove too optimistic for a number of other reasons. CBO has cautioned that its surplus forecasts may be off by large amounts if revenues grow more slowly than it has forecast. Analysts do not fully understand why revenues have grown more rapidly than projected in recent years, and they consequently do not know the extent to which the factors that have caused this unexpected revenue growth are temporary or permanent. Revenue growth in future years could be either lower or higher than CBO currently projects and by substantial amounts. If revenue growth turns out to be significantly lower but the projected surpluses have been used to finance large tax cuts and other expenditures, as H.R. 853 would allow, deficits in the non-Social Security part of the budget would threaten, and large sequesters would loom.

Similarly, a drop in the stock market would result in lower-than-expected revenue collections, since less would be collected in capital gains taxes. That, too, could trigger a large sequester of Medicare and other programs.

CBO this year devoted a full chapter of its annual report on the budget and the economy to the uncertainty of its projections. It warned that "considerable uncertainty" surrounds its budget estimates "because the U.S. economy and the federal budget are highly complex and are affected by many economic and technical factors that are difficult to predict. Consequently, actual budget outcomes almost certainly will differ from the baseline projections..."<sup>4</sup> CBO reported that if its estimate of the surplus for 2004 proves to be off by the average amount that CBO projections made five years in advance have proven wrong during the past decade, the forecast for 2004 could be too high or too low by \$300 billion.

This is a reason for exercising caution in the use of projected on-budget surpluses and not

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<sup>4</sup> Congressional Budget Office, *The Economic and Budget Outlook: Fiscal years 2000-2009*, January 1999, p. 81.



enacting changes in budget rules that allow the projected surpluses to be used in full for tax cuts and entitlement expansions. If large tax cuts or entitlement expansions are passed but surpluses of the magnitude projected do not materialize, H.R. 853 could lead to large sequesters of Medicare and certain other mandatory programs, large cuts in other parts of the budget, or — perhaps most likely — changes in law to evade these requirements, with the result that deficits would return.

### **Emergency Spending Procedures**

H.R. 853's provisions to change procedures relating to emergency spending also warrant mention. There is broad agreement that reforms are needed in this area, and many of H.R. 853's emergency spending provisions seem useful. But these provisions also include several questionable changes. Of greatest concern, the emergency and the PAYGO provisions of H.R. 853 seem inconsistent; under the bill, emergency spending could trigger a sequester of Medicare and other entitlements.

H.R. 853 would establish an emergency reserve fund, funded within the discretionary caps. When a discretionary spending item is designated an emergency, funding would come from the reserve fund. (The amount placed in the reserve fund would be based on a historical average of the annual levels of emergency spending in recent years, which would be about \$9 billion a year. If, in a given year, emergencies required more money than was available in the reserve, the budget committees could agree to exempt the additional funding from the caps.) This provision would not take effect until the discretionary caps are raised so that the caps could be set at a level that takes the reserve fund into account.

While these provisions seem reasonable, they do not mesh with the provisions of the bill that can trigger sequesters if on-budget deficits threaten to return. Suppose the projected surpluses have been used for tax cuts and some spending increases, and a major disaster or foreign military involvement occurs that requires emergency spending beyond the amount in the reserve. Congress could agree to designate the additional disaster or defense spending as emergency spending, but because this spending would result in a deficit, a sequester of Medicare and other entitlements would be triggered.

The bill also appears somewhat too restrictive in attempting to define what an "emergency" is. To be considered an emergency, five criteria would have to be met. Two of these criteria are that the emergency be both "sudden, which means quickly coming into being or not building up over time" and "unforeseen, which means not predicted or anticipated as an emerging need." The requirement that an emergency be both sudden and unforeseen would appear to bar emergency appropriations that are intended to address problems that were foreseen or developed gradually but turn out to be considerably more severe or long-lasting than had been anticipated, such as, potentially, needs for additional funding for peace-keeping in Bosnia. If problems such as these did not meet the new definition of emergency, other discretionary

programs would have to be cut when urgent funding needs for matters such as these arose.

The bill also would accord unusual power in implementing its emergency provisions to the Budget Committees. Whenever any committee approved legislation that sought to designate an item as an emergency, the Budget Committees would determine whether the item met the definition of emergency and consequently could receive funding from the emergency spending reserve. Moreover, it would be very difficult for a floor amendment to be offered to fund an emergency need; H.R. 853 includes no mechanism to handle emergencies through a floor amendment. A proposal to offer such an amendment on the House floor would generally trigger a point of order.

### **Federal Insurance Programs**

Having been critical of a number of the provisions of H.R. 853, let me indicate support for the bill's proposals to change the accounting of federal insurance programs. The federal budget currently treats federal insurance programs (such as flood, pension, crop, and deposit insurance) under cash-based accounting methods. Under these methods, the government is credited with revenue at the time the government collects insurance premiums and is charged with expenditures at the time the government makes claim payments. Under the accrual-based accounting methods that H.R. 853 would establish, instead of recording the flow of cash each year, the budget would record the risk that the government ultimately would have to make payments not offset by the premiums it collects.

The procedures H.R. 853 would establish would reflect the government's liabilities at the time the government assumes them. The expected net losses the government would incur over the life of an insurance contract would be recorded as a cost at the time the contractual arrangement was made. This would help policymakers understand the true costs of policies affecting government insurance programs.

There are some important concerns about how OMB and CBO would estimate the expected net losses that result from insurance contracts. For this reason, this change in accounting methods would be phased in over five years, and studies would be conducted by OMB, CBO and GAO during the phase-in period. Two years after the accounting methods were fully implemented, they would expire, and Congress could decide whether they had been sufficiently successful to continue their use. This seems a prudent course to follow.

### **Conclusion**

H. R. 853 contains some improvements in the budget process, such as its provisions reforming the accounting of federal insurance programs. Unfortunately, its deleterious aspects are serious and substantially outweigh its beneficial aspects. For these reasons, I would strongly recommend against enacting this legislation.

Mr. LINDER. Professor Muris.

**STATEMENT OF TIM MURIS**

Mr. MURIS. Thank you very much, Mr. Chairman. I realize it is the end of a long morning, so let me just make a few points.

The first point is that, despite surpluses, we need to reform the budget process. The rise and fall of large deficits was the result of three major surprises. The first was the unexpected and deep recession of the early 1980s, the second was the end of the Cold War, and the third was the unexpected surge of revenues in the late 1990s. The surpluses resulted in spite of, not because of, the budget process.

Before the mid-1970s, when large deficits of two percent of GDP occurred, they were rare. When they did occur, there was a quick correction. The deficit quickly disappeared. But beginning in the mid-1970s, large deficits began, and they continued for over two decades. The system had become inflexible.

What are the flaws and how does this bill, which I support, address them? The most important flaw and the hardest to fix is the Balkanization of spending authority. When most of the spending went through one committee—the appropriators—there was no persistent deficit problem. By the mid-1970s, with the rise of entitlements, there was no one in charge. It is what economists call a common pool problem. When someone owns all of the fish in a lake, that person will not allow the lake to be overfished. When no one owns the fish, there is too much fishing.

A colleague, Mark Crain, and I tested States that had one committee in charge of spending and compared them to States that had spending authority Balkanized. We found in the Balkanized States spending grew six percent a year faster.

H.R. 853 takes some positive first steps to dealing with this problem. The joint resolution is a good step because what it puts more focus on the totals. A law signed by the President is more important and will have more influence than the congressional budget resolution.

The bill is also good because it makes it harder to create new entitlements. The requirement of reauthorization is beneficial. I would add to that a default rule. For example, if you did not reauthorize, your spending was ten percent below the previous year's level.

The bill does have a default rule for appropriations—default at last year's level. This is one provision that I would change. I would recommend the lower of the President's request for an account or what either House or both Houses have passed.

This provision is meant to deal with the shutdown problems that have occurred recently if Congress were to send last year's level to the President and send it to him repeatedly, however he could not shut the government down with the argument that, he wants 100 percent, not 90 percent or 95 percent. That is not a credible position. Congress could send that bill to the President every day and force him to shut down the government and do a Leslie Gore, "it's my party and I will cry if I want to." The President could not sustain that position. If you are going to have an automatic continuing

resolution, it ought to be one with some more bite to it, and my proposal would do that.

The next flaw that the bill addresses is the baseline system. We have several problems with this system. Although it is often said to measure current services, that is the cost tomorrow of today's government, it does not. For example, the Medicare baseline is significantly greater, almost double what a measure of current services would be.

A second problem, there is the misleading use of the word "cut." When the public hears "cut," they are comparing it to last year.

Third, there is a series of baseline games in which particularly the Finance and Ways and Means Committees have invented the Sistine Chapel of the budget art in finding "cuts" that even by the peculiar logic of the baseline are not cuts. H.R. 853, by focusing on last year's level and by focusing on the reasons for future growth, goes far in addressing these problem. I recommend that in addition you eliminate all discussion of words such as "cut" or "decrease" from project growth." Moreover, when counting for pay-go purposes, that you eliminate the games.

Incidentally, in terms of pay-go, I would support the provision that my colleague on the panel says exist in terms of sequesters that make the process look more like Gramm-Rudman. Unfortunately I do not find that in the current legislation. Pay-go now only applies to policy changes and not to economic and technical changes. Although I wish it did, these changes in the bill do not make pay-go apply to economic and technicals.

Speaking of additional flaws that the bill addresses, the caps are porous for a variety of reasons. In fact, domestic discretionary spending has had healthy increases under the caps. Discretionary spending as a whole has not had healthy increases, but that fact is largely attributable to the end of the Cold War, which can hardly be credited to the passage of the Budget Enforcement Act.

Your bill addresses emergencies, which is the biggest loophole, and I commend you for that. The Senate provision, which takes a different tack is good as well.

An additional issue that you should address are so-called user fees or filing fees. Under the cap these fees, which now fund much of the regulatory state are free because the caps count net outlays and budget authority. One of the things that they are net of are these so-called "fees." In fact, most of these filing fees under appropriate budget scoring would be called receipts and not filing fees, but the committees have coerced the scorekeepers into calling them filing fees.

I recommend that you eliminate that practice, and adjust the caps upward so as to not penalize anyone. In the future you will then deter this incredible increase that we had in the 1990s which started in the 1980s, filing fees.

Finally, let me echo something that the CBO Director said this morning. It has been over 30 years since the report of the President's Commission on Budget Concepts. The intervening period reveals the difficulty. It would be very useful to have budget experts consider these topics in the abstract and devise rules as opposed to trying to deal with them on the fly when the various issues arise. The issues of how to score various Social Security plans, the

continuous use of the tax system to produce outlays, and other issues could be usefully addressed by a budget concepts commission. Thank you.

Mr. LINDER. Thank you.

[The prepared statement of Mr. Muris follows:]

## **I. INTRODUCTION**

Thank you for inviting me to discuss the Federal budget process. I begin by briefly describing some relevant budget history, particularly concerning the rise and fall of the recent large deficits. Because the budget process at the least exacerbated these problems, I then turn to flaws in the process, beginning with the balkanization of spending authority. Finally, I discuss other flaws in the current process, including those with the Budget Enforcement Act. Throughout, I comment on H.R. 853, the proposed Nussle-Cardin-Goss changes to the current process.

## **II. SOME BUDGET HISTORY**

It might seem that in this new era of projected surpluses, the budget process is no longer an important concern. The reason for the rise and fall of large deficits, and the role of the budget process in those changes, should give us pause, however. Before the mid-1970s, large peacetime deficits were a temporary phenomenon. Thus, the large (by the standards of the time) deficits in 1959, 1968, and 1971-72, when the deficit exceeded two percent of GDP, quickly disappeared.<sup>1</sup> The budget was either in a small surplus (1960 and 1969) or a small deficit (1974).

Change occurred in the mid 1970s however. In the seven budgets from 1975 to 1981, the deficit was at least 2.6 percent of GDP in every year except 1979 (when it was 1.6 percent). Something had changed to prevent rapid elimination of large deficits. In the summer of 1981, however, better times appeared to be on the horizon. Thus, in July of 1981, CBO's Budget Baseline Projections for Fiscal Years 1982 - 1986 were released, and are reprinted in Table 1.

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<sup>1</sup> Unless otherwise indicated, all years are fiscal.

TABLE 1  
 BASELINE BUDGET PROJECTIONS  
 Deficit (-) or Surplus  
 (by years)

Projections				
1982	1983	1984	1985	1986
In Billions of Dollars				
-30	18	76	138	209
As a Percent of GNP				
-0.9	0.5	1.9	3.1	4.3

Source: CBO - July, 1981

According to CBO, the budget would not only be balanced by 1983, it would thereafter run massive surpluses. These CBO estimates assumed both a strong economy and that the laws in place would not change. CBO was not alone in the former assumption, as the Administration and most economists in mid-1981 pronounced the economy as strong. As Table 2 summarizes, the consensus forecast, represented by the Blue Chip estimates, was optimistic.

TABLE 2

Blue Chip Headlines:March - July 1981

March	"1981 Economic Consensus Inches Upward"
April	"1981 Full Year Consensus Forecast Continues to Pick-up Steam"
May	"1981 Consensus Forecast Tilts Up Again"
June	"The Recovery Continues"
July	"Economic Exuberance Envisioned For 1982"

We now know the folly of these projections. In July, 1981, the economy was about to enter the worst recession since the Great Depression of the 1930s. But this fact would not be known for months.<sup>2</sup> It was this unforeseen event that was the major cause of the large deficits that followed. Taxes were cut and defense spending increased. Both policies enjoyed wide support in 1981, however, although the particulars were hotly debated. Moreover, both contributed to important policy goals -- economic growth and victory in the Cold War. Because the deficits of the preceding seven years had persisted, this unforeseen recession increased already substantial deficits. By the end of the Reagan years, the situation had returned to where it started, with the 1989 deficit (2.8 percent of GDP) virtually identical to the 1980 and 1981 deficits (2.7 and 2.6 percent of GDP,

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<sup>2</sup> Thus, the record does not support the view that the Reagan Administration used a "rosy scenario" to hide the effects of its first budget. A comparison of the forecasts and assumptions used by the Administration finds that, in the aggregate, they did not differ dramatically from those of CBO or the private sector. What does stand out is the degree to which the administration, CBO, and private economists understated the chance and degree of a major recession. See Muris, Ronald Reagan The Rise of Large Deficits: What Really Happened in 1981 (Independent Review forthcoming).



respectively).

Because the events of the 1990s are more recent and thus more familiar, I will not recount them in as much detail. A mild recession, the S & L bailout, and unforeseen technical changes in projected tax receipts and in Medicare and Medicaid spending increased deficits once again, to 4.7 percent of GDP by 1992. The resumption of the strong economy, a drop in S & L outlays, the end of the cold war, and the 1990 and 1993 tax increases reduced the deficit again. When the Republican control of the Congress began four years ago, however, CBO was projecting \$200 billion deficits well into the future.<sup>3</sup> Even President Clinton's proposed budget for 1996, released in early 1995, projected deficits of this magnitude.

Then, the unforeseen intervened again. Deficits ended, defying the prognosticators, as revenue growth exploded well beyond expectations. Although higher than predicted economic growth contributed to the deficit fall as did a slowdown in the growth of mandatory spending, the bulk resulted from unanticipated other factors, such as the strong stock market. Without major legislative action, we moved from an era of deficits to one of projected surpluses.

What are we to make of this brief history? At least two lessons for current budgeting can be discerned. First, humility is in order. The most important events in the recent rise and fall of large deficits were all major surprises -- the length and depth of the early 1980s recession, the end of the cold war,<sup>4</sup> and the revenue surge of the late 1990s. Second, the budget process has lost its flexibility to respond quickly to unforeseen events, at least to unpleasant ones. Because we cannot control the unforeseeable, let me turn to problems that we can influence, in this case the current budget process.

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<sup>3</sup> Because the economy would grow, deficits as a percent of GDP were projected to decline slowly.

<sup>4</sup> The contribution of lower defense outlays to deficit reduction has been dramatic, falling from 6.3 percent GDP in 1986 to 3.2 percent in 1998.

### III. THE BALKANIZATION OF LEGISLATIVE CONTROL<sup>5</sup>

During the period of large deficits, two views were most often advanced for failure to end them. The first was that the problem was one of political gridlock: the Republican (or Democrat) majority in Congress and the Democrat (or Republican) President could not agree on the mix of spending and tax policies necessary to solve the problem. The second view was that logrolling among legislators and rent seeking by special interests combined to produce spending higher than would exist in a world with lower information costs. For example, transportation projects benefit concentrated interests who care intensely about the project's benefits (reduced congestion and local jobs), while the costs are widely dispersed among taxpayers. Participating in the political process is not free, and opposing inefficient programs is simply not worth the time and effort for most individuals. For many, concerned about maintaining their jobs and supporting their families, collecting enough information to participate effectively in the political process is simply too difficult.

Although there is significant truth to these two views, they do not tell the whole story. Changes in the institutional structure within the Congress and in the budgetary framework in which Congress operates have combined to create the incentives and the means for the deficit to grow and become difficult to control. Regarding institutions, the balkanization of legislative control over spending has led to increases in spending. Moreover, the consolidation within committees over both revenue and spending authority for entitlement programs has fueled the growth of specific programs. Two key institutional changes made during the 1930s were critical in producing a bias in the process toward deficits. The first and most important was to transform jurisdiction over expenditures from a

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<sup>5</sup> This discussion draws heavily on the work of John F. Cogan, "The Dispersion of Spending Authority and Federal Budget Deficits, in *The Budget Puzzle: Understanding Federal Spending*, eds. Cogan, J. F., Muris, T. J. & Allen Schick (Palo Alto: Stanford University Press, 1994) and, for empirical support, on W. Mark Crain and Timothy J. Muris, "Legislative Organization of Fiscal Policy," 38 *Journal of Law & Economics* 311 (1995).

highly centralized committee structure to one in which various committees had spending authority.

A. The Dispersal of Spending Authority

For most of our nation's first century, a single committee in each house controlled almost all spending authority. This institutional arrangement persisted until 1877; in rule changes over the next nine years, the House stripped the Appropriations Committee of its authority over eight of the fourteen appropriation bills. In each instance, appropriations authority was transferred to the legislative committee that had authorizing jurisdiction over the programs contained in the appropriations bill. By 1885, the House had transferred almost one-half of all non-mandatory appropriations to various legislative committees. In 1899, the Senate followed suit, dividing appropriations jurisdiction.

An upward surge in spending followed the dispersal of appropriations jurisdiction. During the seven years following the House decision, spending grew at a rate unprecedented in U.S. history. By 1893, program spending was 50 percent larger than it had been in 1886. Expenditures continued upward following the Senate's decision to divide appropriations jurisdiction, rising 45 percent between 1900 and 1916.

As a result of this rapid growth in spending, calls for budget process reform increased throughout the years preceding World War I. In October 1919, a select committee on the budget was established and recommended that the House consolidate the authority to report all appropriations in one committee. This recommendation was approved in 1920. In 1922, the Senate amended its rules to provide that all appropriations also be considered by one committee. Consequently, the U.S. budget was in surplus for the eleven year period 1920-1930, the longest streak of consecutive budget surpluses since spending authority was dispersed in the House.

Unfortunately, the process of spreading spending jurisdiction among committees began anew in 1932 when the Reconstruction Finance Corporation was created and financed outside normal appropriations channels. Decentralization accelerated during the next four decades, particularly between 1965 and 1975. By the mid 1970s, most substantive congressional committees had authority to report legislation to the floor committing funds from the U.S. Treasury. In 1932, the Appropriations Committees controlled 89 percent of outlays through the annual federal budget process. By 1992, fewer than 40 percent of federal outlays resulted from decisions under the Appropriators' control.

This balkanization of spending authority creates a "common pool" problem. When no one owns a common resource, such as the fish in a lake, there is an incentive for too much fishing, depleting the population. With the budget, the common resource is general-fund revenue. As the Appropriations Committee controls less and less spending, and, correspondingly, other congressional committees control more and more, no one committee has the incentive to restrain spending because the total level of spending is no longer the responsibility of any one committee. To the contrary, the resulting competition among committees to spend results in more spending than would otherwise occur, increasing deficit spending.

B. The Movement Towards Tax Financed Trust Funds

The creation of tax financed trust funds, most predominately Social Security and, later, Medicare Hospital Insurance, and the placement of jurisdiction over them in the tax-writing committees was the second institutional change contributing to the increase in general fund, and hence total, deficits.

Unlike general fund taxes, trust fund revenues are dedicated to specific programs. Moreover, general fund taxes are generally raised under the jurisdiction of a committee that does not control

how the money is spent, unlike trust funds which are raised by the committee responsible for the specific fund. Since World War II, general fund revenues have decreased as a percentage of gross domestic product (GDP) with a corresponding increase in trust fund receipts. In the early 1950s, trust fund receipts amounted to little more than 1 percent of GDP, and general fund receipts equaled 16 percent of GDP. By the mid 1990s, trust fund receipts had increased to nearly 7 percent of GDP, while those of the general fund decreased to about 12 percent.<sup>6</sup> The rise in trust fund revenues seems to be crowding out general revenues.

Significantly, trust fund programs have not run deficits. Although spending for such programs has increased dramatically, trust fund taxes have increased to pay for that spending. Increased federal deficits have thus occurred in areas in which the committee in charge of raising the taxes does not control the spending.

Important implications arise from the merging of the tax and spending authority. In particular, if one committee controls all taxes and benefits, we might expect that both will increase at a relatively higher rate. This conclusion follows because raising taxes, a politically painful step, is made less painful when those who raise the taxes directly obtain the benefit of the increase, through political support from the beneficiaries of the spending. All members of the legislature ultimately vote on taxes and spending, and thus share in the credit and blame. But because committee members exert more influence over the legislation than do noncommittee members, they can more easily tailor spending to increase the credit they receive.

#### C. Econometric Testing

Dr. Mark Crain of George Mason University and I studied the fifty state legislatures to test the

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<sup>6</sup> The recent surge in revenues has increased general fund revenues to over 13 percent. Despite this surge, the non trust fund budget was still in deficit through 1998.

thesis that the dispersal of spending authority among various committees results in significantly greater spending than when one committee controls spending. We also attempted to assess the significance of rules that combine or separate the committees overseeing revenue and spending decisions.

States that have only one committee with appropriations authority should have more control over spending than states with appropriations authority dispersed among committees. Consolidating control within one committee is an institutional means to overcome the common pool problem; it establishes a mechanism to contain spending pressures. By contrast, states that have balkanized spending authority should experience relatively higher spending, resulting from over-use of the common resource, the state's total revenue. Spending pressures are less controllable, absent an institutional mechanism to internalize spending accountability.

The results reveal that states with centralized appropriations authority have more control over spending than states with appropriations authority dispersed among several committees. As predicted, states that centralize spend less, on average, than states that decentralize spending authority. The difference is about 6 percent, holding other factors equal.<sup>7</sup>

The second aspect of our analysis tested the effect on state revenues of combining spending and taxing committees. When these functions are combined into one committee, the legislators who initiate revenue decisions have the most control over how those funds are spent; the taxers are the spenders. When the legislators controlling revenues are not the appropriators, the revenue committee members cannot capture as fully the political benefits of their labors, because spending programs are

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<sup>7</sup> We used regression analysis, a statistical technique designed to sort out the relative impact that several independent variables (such as centralized or decentralized committee structure) have on the dependent variable (here state expenditures per capita). Our results are significant at the .01 percent level.

more likely to be designed to benefit the constituents of the appropriators. Thus, the tax committee is less likely to take the politically costly step of raising taxes if there is no offsetting benefit. We would expect that where taxing and spending authority are merged, taxes would be higher.

As predicted, states that merge spending and taxing authority into a single committee have higher revenues than those that separate these responsibilities among multiple committees. On average, states with merged committees have higher revenues, per capita, by 28 percent (again all other things equal).

#### **IV. OTHER FLAWS IN THE BUDGET PROCESS**

Recognizing that it was losing control over the budget, Congress created a new budget process in 1974. Rather than directly address the central problem of the balkanization of spending authority, Congress instead created a new process with only a weak capability to control budget totals or various budget programs. (Of course, returning more power to one committee was, and is, a politically difficult step. As discussed below, H.R. 853 takes useful first steps in addressing the balkanization problem.)

The new process does have some advantages over the period prior to 1974. In particular, the current process facilitates the development of large deficit reduction plans, such as the one Congress passed in 1995. Nevertheless, despite numerous such efforts, the deficit problem persisted for two decades. Besides the failure to rest real control in one committee, the new process has several flaws that exacerbate the deficit problem. The first involves the use, or more appropriately misuse, of baseline budgeting. Moreover, the much praised, most recent effort to "strengthen" the budget process, the Budget Enforcement Act (BEA) of 1990, is itself flawed.

A. Baseline Budgeting<sup>4</sup>

The budgetary framework in which Congress operates further biases policy in the direction of increased spending. Over the last twenty years, politicians and budget professionals -- Democrats and Republicans, liberals and conservatives--have transformed budget terminology into Orwellian doublespeak. Increases in spending are labeled "cuts," taxes paid the government "reduce" spending, and laws that continue a policy about to expire are said to "cut" spending. Politicians can announce "cuts" that satisfy the public's general desire for reduced government spending and deficit control, while increasing spending for most programs, thus assuring themselves the support of special interest groups. Moreover, all these claims seem legitimate to many policy analysts and are too often accepted uncritically in the press.

I. Origins of the Baseline

Throughout most of U.S. history, the base used to compare alternative budget proposals was either the levels in the previous year's budget or those proposed by the President. Beginning with the Congressional Budget Act of 1974, more elaborate bases, called baselines, came into play. The Act required a baseline that continued current programs at "the same level as the current year without a change in policy." Such a baseline, it was felt, would be better for assessment of the fiscal impact of new proposals than the cruder measures previously used.

How to define the baseline was unclear, however, and the legislative history gave no precise guidance. Alternative definitions developed. One is to measure a constant level of government services to determine if a proposed change would increase or decrease government. This view uses

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<sup>4</sup> I discuss these issues at greater length in Timothy J. Muris, "The Uses and Abuses of Budget Baselines," in *The Budget Puzzle: Understanding Federal Spending*, eds. Cogan, J. F., Muris, T. J. & Allen Schick (Palo Alto: Stanford University Press, 1994).



as a baseline "current services." This baseline was intended to provide a policy-neutral method to project accurately what it would cost in the future to continue government as it exists today. Such a baseline, it was felt, would allow better assessment of the fiscal impact of new proposals than the cruder measures previously used.

Another definition focus on the words "without a change in policy." Under this approach, the baseline puts the government on "automatic pilot," determining how much it would cost to fund it in the future if no new legislation were passed. This view is called "current policy." A third alternative is called "current law." It differs from "current policy" in not including adjustments for inflation of discretionary spending. The current policy baseline has been the most frequently used measure for evaluating and reporting on budget proposals.

## 2. The Baseline Used Does Not, and Could Not, Measure Current Services

Any baseline that projects the cost of the current level of all government activities into the future is an illusion. There are two major problems. First, events outside the congressional spending process can change the funding level needed to hold government services constant. In other words, because of events outside its control, tomorrow's government can require more or less money than today's to provide the same services.

An example of an event exogenous to congressional spending decisions is the accomplishment of a program's objectives. To hold government activity constant, sensitivity to the purposes of programs is required. If the original purpose of a program is achieved, yet spending continues for a new purpose, then government involvement in the economy has increased, not remained constant. For example, early in the Carter administration, Congress increased job-training funding to help alleviate the impact of a recession. Once the recession ended, continuing the program meant a change in its purpose, not a mere continuation of past efforts.

The second problem is that, even ignoring such exogenous events, determining what amount will be necessary to fund government at a constant level is a complex matter. Simple formulas such as adjusting all discretionary programs for inflation can fail to measure accurately a constant level of government. Many variables can influence the calculus, and even when current services for a particular program are carefully calculated, experts may reasonably disagree over the correct estimate, thus undermining the supposed policy neutrality and objectivity of the current services baseline. For example, defense experts disagree over the level of funds needed to support any given force structure.

In any event, it is clear that the baseline used does not measure current services. Consider Medicare. CBO annually divides projected growth into three parts--increased caseload, price inflation, and a residual, measuring greater use of services. The first two should be part of any effort to define true current services, i.e. how much it will cost tomorrow to fund today's program. But the final category--greater use of services--obviously represents more, not current, services. It is this last category that accounts for the bulk of the historical increase in Medicare spending--over 50 percent. Despite the fact that most of Medicare growth has been in excess of true current services, in the last decade public debate of the program has been dominated by discussion of "cuts."

### 3. Impact of the Baseline

Proponents of the baseline approach both argue its necessity and maintain that "objections [to the baseline system] have more to do with form than substance. . . . In the end, the budget totals are the same whichever approach is used."<sup>9</sup> Yet, any system that fundamentally alters how the public understands political action influences outcomes. Indeed, this pattern continued in the budget

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<sup>9</sup> U.S. Congress, Congressional Budget Office, A Profile of the Congressional Budget Office, at p. 32-33 (Sept. 1990).

negotiations of 1990s. The rhetoric that dominated the process was of extreme pain, yet in 1990, for example, Congress expanded Medicare and Medicaid significantly and continued the large increases in domestic discretionary spending that began in the last year of the Reagan administration. The reality of substantial new spending hardly matched the harsh rhetoric of severe restraint.

The rhetoric of the budget is biased toward increased spending. This claim can be reduced to a simple proposition: In dealing with the press and public, would an advocate for a program prefer that built-in increases above the previous year's level be characterized as "current," so that a restraint in growth leaving expenditures well above last year's would be presented as a "cut"? Or, would he or she prefer to have the debate be over the, for example, 10 percent increase assumed in the baseline, or a mere 8 percent increase over last year's spending levels? Particularly given the short time one often has to make a point--in many cases a 10 second "sound byte"--it would be a rare program advocate indeed who did not prefer the current policy language of "cut" to the alternative of defending an annual increase.

The defenders of the current Medicare and Medicaid programs provide many excellent examples. In 1995, for example, the Congress made a serious attempt to slow the growth of Medicare. Nevertheless, the annual growth rate was still projected to be in the six to seven percent range, depending upon which plan and whose estimates were used. Yet, because of the rhetoric of the baseline, most Americans thought that the Congress was actually attempting to reduce spending below the 1995 level.

Even when the proposed reform is more modest, critics of the reform have used the baseline for political advantage. On January 5, 1987, for instance, then President Reagan's budget for 1988 was released, and proposed to restrain the growth in Medicare from 63 percent (10 percent annually) in the administration's five year, current policy baseline to 46 percent (8 percent annually). The next

day, the American Association of Retired Persons, the American Hospital Association, the American Medical Association, the American Nurses Association, and the Federation of American Health Systems ran a full-page advertisement in the Washington Post. The ad featured a large picture of an elderly woman and a young soldier embracing. The following appeared above the picture:

During the past five years,  
more than \$30 billion has been  
cut from Medicare and Medicaid.

Now the administration  
wants to cut \$50 billion more.

Below the picture, the ad asked:

Isn't it time we started  
defending the home front?

The body of the ad appears to compare yearly increases in defense spending with "cuts" in medical programs. Against the current policy baseline, Medicare and Medicaid had been cut. Yet, in absolute numbers, national defense outlays grew by 110 percent from 1980 to 1987 (\$134 billion to \$282 billion), while Medicare and Medicaid increased by 123 percent, from \$48 billion to \$107 billion. Thus, the medical programs actually grew by a greater percentage than defense. By claiming that defense was increasing while Medicare and Medicaid were being cut, however, the ad effectively used the current policy baseline to protect large growth in the medical programs.

4. "Gaming" the Baseline

The misleading use of "cut" is not the baseline system's only fault. The system has been manipulated, often producing "savings" dubious even under the baseline's peculiar logic. This manipulation of the baseline exacerbates this bias in favor of spending. When, as in the 1990 budget summit, \$17 billion can be claimed as "cuts" simply by extending current law (and even allow for paying hospitals a higher percentage for capital than previously), when \$9 billion can be claimed as savings over three years by limiting pay increases to 4 percent, when paying hospitals a higher update than they previously received is the largest "cut" in the 1987 budget summit category of entitlement "savings," and when money can simply be shifted to the next fiscal year to claim savings, a large package of "reductions" can be enacted with little or no impact on actual spending or the deficit. Even in the 1995 Reconciliation Act, which clearly was more ambitious than past efforts, almost one-third of the "savings" needed for Medicare could have been obtained simply by extending expiring provisions and continuing current policies.

One of the biggest games is what I call "The Perpetual Motion Machine of Expiring Spending Cuts." A program is categorized as being "cut" if a policy designed to reduce costs relative to the previous policy is scheduled to expire and then extended. Because the previous, higher-cost, policy is "in" the baseline for the years after the lower cost policy expires, extending the "saver" once again "reduces" costs. Repeated extension of the Medicare Part B premium at twenty-five (25) percent of program costs is a notorious example.

A closely related practice occurs when programs are annually increased. By having the baseline assume an annual increase higher than the one usually paid, large savings can be claimed. Medicare again provides an example, with the long-standing practice of assuming a high payment increase to hospitals in the baseline and then increasing payments annually by less than the assumption. Beginning in 1984, Congress began requiring hospitals to be paid under the prospective payment system (PPS) based on the diagnosis of the patients' illness, not on the services they actually receive. Each year, the PPS payment scale is increased or "updated." This update, once set by the Secretary of Health and Human Services, is supposed to be based on several variables, including input inflation (called the "market basket"), hospital practice patterns, and hospital productivity.

Initially, both practice patterns and productivity were used to keep the update below the market basket. But after a few years Congress mandated that the baseline assume an update at the full market basket. Congress then legislated the update below the market basket, claiming budget savings each time, although in fact the outcome was identical to the intent of the system.

These "games" have become an established part of our budget system. The budget process has focused too much on producing a respectable number of "cuts"; if the cuts merely manipulate the baseline, the political pain, which is greater when programs are actually cut than when they are increased, is lessened. More important, some of these cuts are then used to offset real spending

increases or to protect other programs from real spending restraint. Congress frequently pays for new initiatives, which can dramatically increase outlays, by "cuts" from the baseline. In this way, "soft" savings offset "hard" increases.

Created to give policy makers a better handle on budgetary decisions, in practice the current policy baseline has given rise to a charade divorced from fiscal realities. It should be scrapped. The current reform bill goes a long way toward accomplishing this goal. (I discuss additional changes below.)

B. The Budget Enforcement Act (BEA)

1. The Discretionary Caps<sup>10</sup>

Proponents of the BEA have claimed that the limits on discretionary spending have been a resounding success in achieving their goal of restraining budgetary growth. The BEA placed ceilings, or "caps," on the levels of annually appropriated spending, providing separate limits for domestic, defense, and international spending through fiscal 1993 and then one limit for major discretionary spending categories through 1997. Defense has a separate cap for 1998 and 1999, and there are separate caps for certain smaller areas, such as violent crime and transportation programs. When the BEA was enacted, these ceilings were proclaimed as restraining domestic discretionary spending to the level of inflation, and were said to be particularly tight after the agreement's first year. So successful are they perceived to be that Congress has continued them.

Reality, however, is far different. Properly measured, domestic discretionary spending growth has exploded since 1988, two years prior to the enactment of the BEA, and 1999. Of course,

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<sup>10</sup> For more details on how to measure domestic discretionary spending, see John F. Cogan and Timothy J. Muris, "Changes in Discretionary Spending During the Reagan Years," in The Budget Puzzle: Understanding Federal Spending, eds. Cogan, J. F., Muris, T. J. & Allen Schick (Palo Alto: Stanford University Press, 1994).

BEA. Indeed, the effect of the 1990 budget deal was to increase short term defense spending above the level Congress was otherwise planning to appropriate.

a. The Sources of Confusion

There are two major reasons why reality and perceptions are so at odds. The first is that officially-reported budget authority and outlay figures do not measure the monetary size of programs accurately. The availability of means of financing programs other than direct appropriations, such as receipts from offsetting collections, obligation limitations, transfers from entitlement programs, and recoveries of prior year spending authority can all increase program size without being fully reflected in annual budget authority and outlay figures.

A truer picture emerges if "budgetary resources" are used to gauge the monetary size of programs. Budgetary resources for a program are the total amount of funds made available for obligation by that program in a given year. This measure includes all the available means of financing listed above. Once this measure is developed, a true picture of changes in domestic discretionary spending can be seen.

The second reason for the mismatch between reality and perception involves the caps themselves. Although the caps are a constraint, their impact on spending growth depends upon the level of the caps. In fact, for many reasons, particularly the level at which the caps were first set and adjustments that the 1990 law requires to be made to them, the caps have not restrained the growth of domestic discretionary spending.

The failure to measure spending accurately and to understand the nature of the caps helps explain the rhetoric and commentary that has occurred each year about the level of domestic discretionary spending. Throughout the year, from release of the President's Budget through



enactment of the appropriation bills, the dominant theme is how tight the caps are. Some commentators, pointing to measures of spending such as budget authority and outlays which, although incomplete, can capture the direction of spending changes, note that while the caps may have been generous in the past, they are now tight. Yet, when that past was the present, i.e., when the Congress was working on the appropriations now recognized as allowing growth, the dominant theme--severe restraint--prevailed. Because the caps are both adjustable and are incomplete measures of spending, the seemingly tight caps are revealed, long after the fact, to be not so tight after all. By this time, however, Congress is working on new appropriations, again bemoaning how severely it is restricted.

b. Accurately Measuring Program Size

In measuring the size of discretionary programs, reported outlays are frequently equated with total spending. This is incorrect. Outlays are recorded net of certain payments made to the government from the public. Moreover, outlays are recorded only when a check is issued, not when the government assumes an obligation. Outlays for many programs, therefore, occur years after the programs have been funded.

Using appropriated budget authority to measure program size avoids the timing issue, but for some programs, this measure is irrelevant or only one method of financing. Particularly in the last 20 years, other methods have been used with increasing frequency to enable Congress to produce the appearance of budget cutting while the total amount available for spending has been maintained or increased.

One such method is requiring the public to pay a fee for a particular service. Such fees, called offsetting collections, are excluded from reported outlay and budget authority figures, but the agency providing the service is frequently allowed to use the fees to cover some or all of its costs. By

increasing the fee and reducing the amount of appropriated budget authority. Congress can increase the amount of money the agency has to spend while reducing the agency's budget on the government's books. The use of such fees has become increasingly common, and are funding more and more of the regulatory state.<sup>11</sup>

Another type of budgetary resource that has not been included in calculations of budget authority are obligation limitations. Obligation limitations are used to control programs with trust or revolving funds. Highway programs, for example, are financed through a trust fund that receives money each year, mostly from taxes earmarked for that purpose. A limit on the amount in the fund that can be obligated for new spending, called an obligation limitation, controls program size. Obligation limitations thus serve the same purpose as appropriations do in other accounts, and are functionally equivalent to budget authority. Obligation limitations should be equated with budget authority to compute program size.

There are other methods Congress can use to conceal the true level of spending on discretionary programs. For example, Congress has transferred money from entitlement programs to discretionary programs. Congress can also "recover" expiring funds to spend on new programs. This is money, usually budget authority, that was previously appropriated and obligated. Unless it is "recovered," it will not be spent because it is no longer needed.

c. Adjustments to the Caps

As mentioned above, several adjustments to the caps have made them more generous than they originally appeared.

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<sup>11</sup> Indeed, as documented by CBO, offsetting collections grew rapidly even as deficits grew. Between 1980 and 1991, user charges classified as offsetting collections increased two and one-half times. User charges to fund regulatory agencies have increased even faster, by more than five times. See CBO, The Growth of Federal User Charges (August 1993). See also The Growth of Federal User Charges: An Update (October 1995).

### i. Emergencies

Under the budget rules, both as negotiated in the BEA and as reaffirmed in August 1993 and 1997, emergencies do not count against the caps. This loop-hole has added billions of dollars to discretionary spending.

Until Appropriations for 1998, there was much self-congratulatory praise in past Congresses and the Executive branch about how this provision has been limited to "true" emergencies, such as hurricanes and earthquakes. This praise was misplaced. The emergency exception is designed for unforeseen events, on the theory that no rational budget process could account for them. It is true that the particular emergencies that occur are unforeseen. In a nation as large as ours, however, the fact that there will be emergencies (almost) annually is foreseeable. Whether it is hurricanes, earthquake, riots, major floods, drought, or military emergencies, it is predictable that somewhere, in some fashion, nature or other forces will produce the need for "emergency" spending.<sup>12</sup> Rather than treat emergencies as acts of God for which the budget process should be held unaccountable, these events are, in the aggregate, predictable. An amount, based on past experience, should be set aside within the caps as a contingency to fund them. Moreover, these funds should be released only for true emergencies.<sup>13</sup> H.R. 853, as well as the Senate bill, provide useful checks on abuse in this area.

### ii. The Outlay Cushion

The drafters of the BEA recognized that a budget authority cap does not control all forms of spending. Although retaining the traditional treatment of offsetting collections, and thus allowing

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<sup>12</sup> All years in this sentence are calendar years.

<sup>13</sup> OMB's definition -- "sudden, urgent, unforeseen, and . . . not permanent" -- is helpful here. See "Report on the Costs of Domestic and International Emergencies and on the Threats Posed by the Kuwaiti Oil Fires," as required by P. L. 102-55, Executive Office of the President, Office of Management and Budget (June 1991).

increases in such fees to fund programs without counting against the ceilings, the BEA attempts to control obligation limitations through an outlay cap. The cap was apparently calculated to provide outlays sufficient to fund the programs at the modest levels of growth implied by the budget authority cap. The original Budget Enforcement Act allowed for an additional \$6.5 billion in outlays, however, ostensibly as a cushion to provide for differences in estimating outlays between OMB and CBO.<sup>14</sup> Although some estimating differences still exist for domestic discretionary programs, they have largely been eliminated as, beginning with the Gramm-Rudman-Hollings sequester report in 1986, the career staffs of both agencies have sought to narrow their differences.

The outlay cushion also serves another purpose, namely providing for additional growth in budgetary resources. The cushion provides some additional ability to increase obligation limitations and hence increase the total of budgetary resources. To the extent that the cushion is not needed for estimating differences or other reasons, every additional dollar of outlays available allows for the creation of greater than a dollar in budgetary resources if the programs funded produces outlays beyond the first year. In fact, the largest program funded via an obligation limitation, highways, produces less than 20 cents in first-year outlays for every dollar of new budgetary resource.

### iii. The Budget Authority Cushion

Like outlays, the original BEA provided for a BA cushion. Two cap adjustments were allowed. The first adjusted the domestic cap for 1992 and 1993 by ".1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991,

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<sup>14</sup> For budgets since 1995, the special outlay allowance has been 0.5 percent of the total discretionary spending limit on outlays. Although not a stated reason, the cushion also allow for some change toward a mix of programs that produce outlays faster than the mix allowed in the original BEA numbers. Budgetary resources produce outlays at different rates. If Congress changes the mix of appropriated budgetary resources toward programs that produce outlays quickly, then more outlays will be produced in the first year from the same amount of budgetary resources.

1992, 1993 (cumulatively) . . . ."<sup>15</sup> The second adjustment is "the amount of new budget authority . . . [that] exceeds the discretionary spending limit . . . due to technical estimates made by the director of the Office of Management & Budget."<sup>16</sup> Several billion dollars were added to the caps through these allowance adjustments. (Outlays from the BA cushion count against the outlay cushion as they accrue.) Like the outlay cushion, these adjustments allowed for some increase in budgetary resources above the level implied in the original caps.

iv. **Inflation Updates**

The BEA originally provided for very modest growth in the domestic discretionary caps beyond 1991. The caps themselves were to be adjusted for a variety of factors, including inflation. If actual inflation was higher than the BEA anticipated, then the caps would increase; if inflation was lower, then the caps would decrease. In fact, actual inflation was below the BEA's projections, causing the caps to be lowered.

For two reasons, however, these adjustments did not fully remove the impact of the mistaken projections; thus, to the extent the caps were set to grow with inflation, the adjustments allowed the caps to exceed this goal. First, neither the caps for the year in which the mistake occurred nor those for the year following were adjusted. For example, actual inflation for 1991 was not known until after fiscal 1991 ended and most appropriations for fiscal 1992 had already occurred. Thus, only the caps for 1993 and beyond were lowered. Second, OMB read the BEA to force adjustments only for

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<sup>15</sup> The quote is from §251(b)(2)(E)(I) of Gramm-Rudman-Hollings, as amended by the BEA. This section was not included in the 1997 agreement.

<sup>16</sup> §251(b)(2)(E)(iv). The quoted language covered 1994 and beyond, when there was only to be one discretionary cap. Para. 251(b)(2)(E)(iii) contains an identical provision for 1992 and 1993, except that it provides for a separate adjustment for each of the three individual caps. Both sections limited the total BA cap adjustment allowed. For example, for 1994 and beyond, the statute defined the limit as ".1 percent of the adjusted discretionary limit on new budget authority for that fiscal year." §251(b)(2)(E)(iv). These sections were not included in the 1997 agreement.

the nonpersonal accounts of discretionary spending. CBO and GAO argued that the adjustment should have applied to all accounts.<sup>17</sup> OMB's position thus caused smaller decreases than a full adjustment would have.

## 2. PAYGO

As part of the 1990 BEA, pay-as-you-go (PAYGO) rules were adopted to insure that congressional action on revenue and entitlement spending did not increase the deficit. PAYGO requires that, at least as long as the on-budget category is in deficit, new legislation increasing outlays or reducing revenues be deficit neutral. Thus, such legislation must include offsetting revenue increases or expenditure decreases. If Congress does not act, a sequestration of certain entitlement programs will occur.

Although much praised, PAYGO has had a limited impact. PAYGO only applies to policy changes to existing laws. It does not reach mistakes because of inaccurate economic or technical estimates. Simply, PAYGO does not require cost "overruns" to be paid for if the excesses resulted from optimistic or mistaken projections.

Consider the problems government and private forecasters had in estimating the effects of President Reagan's first budget, discussed above. The estimates of the administration, CBO, and private forecasters all greatly understated the deficits that would arise from the first Reagan budget. Similarly, the economic forecast accompanying the 1990 budget deal was highly inaccurate.

Regarding technical re-estimates that increase the deficit, one of the best and most recent examples of this recurring problem can be found in the 1990 Budget Agreement. Congress and then

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<sup>17</sup> See, e.g., GAO, Budget Issues: Compliance With the Budget Enforcement Act of 1990 (Nov. 1992). The latest BEA does not contain an inflation adjustment.

President Bush claimed that they were "cutting" health programs by \$35 billion over five years and "saving" \$7.5 billion by extending the current policy regarding patient payment of premiums for Part B of Medicare. Since the 1990 agreement, the Congressional Budget Office (CBO) reestimated the cost of these programs through 1995 (the last year covered by the 1990 deal) numerous times. Although the number or size of the mistakes should be random, with as many overestimates as underestimates, the CBO reported positive technical adjustments for Medicare and Medicaid that were many times the size of the claimed "cuts." In other words, the "progress" made in restraining growth was eliminated by an actuary's pen -- yet no one required additional restraint because of mistakes in the previous estimates.

The fastest growing area of Medicare -- post-acute care -- provides specific examples of the problem. Consider home health care. In 1988, the estimate for total home health outlays in 1993 was \$3.8 billion; the actual amount was \$9.3 billion--two-and-a-half times the original estimate. Outlays for home health continue to explode after 1993. What happened? The primary reason behind the growth was an out-of-court settlement HCFA negotiated with provider and consumer groups after losing a court decision concerning limits on the amount of home health services Medicare allows. The settlement effectively eliminated the limits. HCFA's new policy was enacted independent of Congressional oversight and OMB review. Again, no penalty resulted.

Similar rapid growth has occurred in the skilled nursing facility benefit, expenditures for which grew even faster than for home health. A key event that helped trigger the unexpected increase was the passage of the Catastrophic Coverage Act in 1988. That law repealed the previous requirement for a three-day hospital stay before Medicare would pay for skilled nursing care in a nursing facility. In the short period before the Act was repealed, the program's costs nearly tripled. Despite the repeal, expenditures did not return to previous levels and have continued to rise rapidly.

The reasons for underestimation of the cost of certain government programs is not obvious. One major reason appears to be a consistent inability to foresee all of the myriad ways in which providers will use changes in the law to their advantage. Such lack of foresight is hardly surprising, given that there are thousands of highly intelligent people who specialize in obtaining additional money from the government, and that government estimators are largely unwilling to increase their estimate of specific program costs in the absence of hard evidence.



## V. POSSIBLE SOLUTIONS

### A. Eliminate, or at Least Reduce, Balkanization

As in the 1920s, we should centralize spending control within one committee. The historical record and our research indicate that reestablishing single committee control over spending authority would have significant effects on decreasing both the level of spending and the prospect of deficits. This proposal may be difficult for the Congress to implement because it greatly concentrates power over "pocketbook" issues. However, recent voter disenchantment and the electoral upheaval in the 1990s should have put Congress on notice that control of key committees and the ability to direct favors to interest groups is no longer enough to protect incumbents from the voter's increasing desire to see progress on national problems.

If full consolidation is impossible, several steps in that direction should be easier to adopt. Entitlement status should be ended for all programs except earned entitlements, such as Social Security. A new appropriations subcommittee could be created, with jurisdiction over the former entitlements and membership consisting of the committees with previous jurisdiction. At a minimum, all programs should be reviewed periodically, with future spending ended without reauthorization.

H.R. 853 does not go as far as I recommend, but it does take useful steps. Providing for a joint budget resolution would encourage Executive-Congressional agreement on budget totals. Moreover, the bill appropriately increases the difficulty in creating new programs not subject to discretionary appropriations. The bill also requires periodic reauthorization of entitlements, and would be strengthened by providing penalties for failure to reauthorize.

Control could also be strengthened through a default rule that penalizes Congress and the Executive when they fail to achieve their goals. Although much maligned, Gramm-Rudman-Hollings

(GRH) was better than what has replaced it. GRH was imperfect, in particular because the House in 1985 successfully removed numerous programs from its reach. But it did exert pressure to reduce the deficit, producing significant restraint, particularly in domestic discretionary programs in fiscal 1986 and 1988. GRH died because of the unique S&L crises, which exploded deficit projections, and because it was mistakenly ended as part of the 1990 budget deal. It should be renewed, with its coverage expanded to remedy the problems discussed above.<sup>18</sup> Moreover, we should require the use of multiple year targets, not just annual ones.

H. R. 853 does contain a default rule for the appropriations process, an automatic continuing resolution at the level provided for the prior fiscal year. Because Congress could simply send such a measure to the President, this provision is unnecessary. (A veto threat because of insufficient funds is empty. How can a President who gets 90 - 95% of his request shut down the government and thereby tell the American people he prefers nothing?) Moreover, it gives too much advantage to those favoring the status quo. As one who believes that reductions in some discretionary accounts are warranted, I would prefer a default rule at the lower level of Presidential request or Congressional action.

B. Scrap the Baseline System

By assuming a continually growing level of spending, baseline budgeting makes it harder to consider ending programs. Further, it fundamentally alters how the public understands the budget process. Allowing continuous and large increases in programs to be classified as "cuts," it creates the impression of action when nothing significant has occurred. The greatest check on state power can occur only when the public respects and can fathom what the government is doing. Baseline

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<sup>18</sup> Another useful step would be to follow the BEA and first sequester the individual areas that cause the deficit targets to be breached.

budgeting does not allow either. A device created to promote good government has become instead an exercise in gamesmanship to justify politically expedient results.<sup>19</sup>

Of course, the problems that led to the baseline system cannot be ignored. As now calculated, the current policy baseline does provide useful information for many programs, i.e., a knowledge of what spending would be in the absence of congressional action. But for many other programs, notably discretionary ones, and those parts of mandatory programs that require frequent adjustments, there is no automatic pilot to measure. Rather than pretend to solve an insoluble problem, we should acknowledge that no good baseline is possible.

Although all programs should be measured against the base of the previous year's spending, for those programs that automatically increase the underlying reasons should be understood and evaluated. Breaking down the increases in programs into their components would improve Congressional and public understanding of the dynamics of government spending. For Medicare, for example, the past year's spending could be presented along with the projected increase in beneficiaries, changes caused by the aging of the population, general inflation, medical inflation, increased volume and intensity of use, and the costs of phasing in expansions and expiring provisions. The technical display should be as neutral as possible.

To be sure, such a procedure would be more complex than using the current policy baseline alone, but it would be a more accurate picture of reality. Medicare and many other government

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<sup>19</sup> As an adjunct to eliminating the current policy baseline, we should modify the reconciliation process. As discussed above, numerous program expansions were funded in past reconciliations. Indeed, one of the few benefits of the 1990 budget deal was that it eliminated the need for reconciliation, at least for a few years. The expansions stopped for a while. They should be barred from future reconciliation bills. Thus, rather than repeal the Byrd rule for certain purposes, I would modify it.

programs are not simple. Understanding and making intelligent decisions about those programs requires knowing why and how the program is growing. If the presentation of these programs oversimplifies a complex reality, it conceals important information and indirectly influences outcomes.

No system of evaluating budget decisions will be entirely immune from distortion and gamesmanship, but abandoning the present system will make it easier to understand the impact of spending and tax decisions on the deficit. We should decrease the likelihood of claiming victories in the battle against deficits when they occur while steadily losing the war.

H. R. 853 takes major steps toward abolishing Washington's peculiar budgetary language. By focusing on actual spending levels and the percentage increases thereto, as well as highlighting the reasons some programs will grow even without new legislation, public understanding of the budget will be enhanced. I recommend that the bill be amended to make corresponding changes in PAYGO and to eliminate the "gaming" discussed above.

C. Modify The BEA

The BEA should be changed, especially if the more significant changes discussed above are not adopted.

1. Discretionary Programs

First, the concept of budgetary resources should be substituted for the BA and outlay caps currently used. At the least, offsetting receipts should no longer be "free" under the caps. Second, the loopholes that allow the caps to be increased should be curtailed, especially that for emergencies.

2. Mandatory Programs

PAYGO rules should be adjusted to require the inclusion of adjustments for technical and economic errors. Although correct forecasting is a difficult mix of science and art, not correcting for mistakes means that they are simply being ignored. Given the degree to which mistaken assumptions are common and increase deficits, the country cannot afford to pretend they do not exist. Future deficits will be controllable only when responsibility for them is accepted. Requiring that mistakes be addressed does only this.

Mr. LINDER. Are you aware that the continuing resolution that is in this budget proposal is the reason that the President vetoed the bill 2 years ago? Are you aware of that? That is the reason he chose for it, because it was a rather important bill, and it was put on there so we wouldn't get into the same circumstance that we got in before, and it was the cause of the veto.

I am interested in Balkanizing the spending authority. I came from many years of experience in legislature, and I wondered why we had both authorizing and appropriating committees and the Budget Committee. In your proposal would you get rid of the Budget Committee or the authorizing committees or the Appropriations Committee?

Mr. MURIS. The Budget Committee was passed as a weak attempt to deal with the problem. By the time the Budget Committee was created, the horse was out of the barn, as they say.

What happened was, realizing that they could not get control over the totals through the one committee, Congress created the Budget Committee.

There are several steps you could now take. The steps you already plan to take are useful. You took a first step towards consolidation with welfare reform. I would make those programs discretionary and create a new subcommittee of the Appropriations Committee. Let the authorizers be part of the appropriations process.

Historically we have one precedent for doing this. The appropriators lost control at the end of the 19th century, and they regained control again in the 1920s. Even though this sounds very dramatic, your bill takes some first steps, and what happened with welfare reform shows that you can end entitlements. The Budget Committee would not be needed ultimately in this world, but it exists now as a weak substitute.

Mr. LINDER. A couple of you talked about reauthorizing. My experience in sunseting departments and agencies, it doesn't work. They always get reauthorized because of the intense pressure and the lack of interest, so it is a one-sided lobbying operation. It takes a lot of time. I don't recall in the legislature anything being sunsetted.

Mr. MURIS. Part of the problem depends on what the default rule is. If the default rule is zero, that is a very difficult choice. If you have a minor reduction as a default rule, as exists in food stamps right now, where there is a provision for a pro rata reduction, there might be real opportunity for change. I certainly agree, that it should not be a meaningless exercise, and it is mostly a meaningless exercise if the choice is zero on the one hand or nothing happens at all if there is failure to reauthorize.

Mr. GREENSTEIN. I note that food stamp provision has never been invoked in 22 years.

Mr. LINDER. We dramatically increased food stamps in the last 6 years in spite of the fact the number of people dropped dramatically.

Mr. GREENSTEIN. Food stamp spending increased between 1989 and 1994 or 1995. It has dropped dramatically. It has decreased very dramatically since then. In fact, it is billions of dollars per

year below the CBO projection of what it would cost when the welfare law was passed. The number of people on food stamps has dropped about 9 million in the last 4 years. Both participation and costs are much lower.

Mr. LINDER. Ms. Phillips, you talked about enforcement mechanisms. In your judgment, are the enforcement mechanisms in the new proposal sufficient?

Ms. PHILLIPS. I think this bill moves in the proper direction. A lot of ideas have been raised this morning that are not in the bill, other things you could do. But we are really now in the realm of trying to enforce the existing laws. I think the emergency set-aside is probably the singler best doable, gettable piece that you have in this bill.

I would hope that the people in Congress and elsewhere who see parts of this bill that they don't like, rather than just bringing all guns to bear and trying to stop it dead in its tracks, would work together—this bill started with a bipartisan sponsorship—and work together on the things that can be agreed on.

Enforcement in the name of the game, but enforcement can only be as good as you want it to be. You can always pass another law that says, never mind, we are going to raid the refrigerator at midnight, and we don't care how many locks you put on. We have keys to every one of them. If you have the votes, you can do it; You can overturn any enforcement mechanism. It is as much an exercise in the spirit of the law and understanding why it is important to be able to say no as anything that you can put into a law. If the law gives you excuses, if the law sets limits and says you can only do this much and no more, then you have got a situation where you are enforcing those limits, and maybe that enables you to muster the will.

But as other witnesses have said this morning, we have the baby boom heading toward retirement, and last I heard they are planning on getting benefits. Any way you look at the numbers, whether they are a little optimistic or pessimistic, we are not prepared for the aging of our population or the strains it will put on the budget. We know it is coming, and it is going to be a huge strain on our economy. It is too easy to focus on what good things you can do between now and the next election, but 15 years from now you are going to say, why they didn't make us be fiscally responsible back in 1999.

Mr. LINDER. Your coalition seems to view tax increases and spending cuts as equal participants and neutral irrespective of reducing deficits.

Ms. PHILLIPS. Our position is that you have to be responsible, and if you really want the tax cuts because you think it is the responsible thing to do, and you don't have a recession, you are not at war, and you are enjoying a prosperous peacetime economy, then if you want those tax cuts, you ought to be willing to cut back your spending commitments so you have a balanced budget at a lower level.

If you don't want to cut back your spending, and you want to have spending back where it was at 23, 24, 25 percent of GDP, then you have to be willing to raise taxes to that level to pay for it.

We are in an extremely prosperous peacetime economy. It doesn't get better than this. What in the world can be the excuse for running deficits in the rest of the government, much less raiding the Social Security surplus, which we already know our fiscal policies are not even up to the job that lies ahead? So that is where we are coming from. If that is what it comes to, and you have to have a tax cut in order to be responsible, we would support it if you are willing to make the spending cuts to get government down to the level of revenues.

Back in 1992, when Concord was formed, people were very cynical about the possibility that anybody could ever balance the budget, and in order to have any credibility, Paul Tsongas and Warren Rudman had to come up with their Zero Deficit Plan for the year 2000. Ironically, we proposed balance at 20 percent of GDP on revenues and 20 percent on expenditures at a time when revenues were at about 18 percent and expenditures were 22 or 23 percent. We brought them to the middle. People on the left didn't like us because we cut spending, and people on the right didn't like us because we proposed raising revenues. Twenty percent is about where we ended up balancing. The country is going on pretty well.

Mr. LINDER. That is not where we are today.

Ms. PHILLIPS. A little more than 20 percent.

Mr. LINDER. About 22.

Mr. GREENSTEIN. I think it—

Ms. PHILLIPS. I think GDP is going to be better than you think, so that keeps it a little lower.

Mr. LINDER. Mr. Hastings.

Mr. HASTINGS. John, you mentioned that the sunset laws don't work in Georgia. I have to tell you when I was in the legislature, we did get rid of one commission. It was the Grist Mill Commission, and it was put in place in 1890, and the last grist mill we had in Washington was in the 1930s. So there is some success out there.

Ms. PHILLIPS. When I came to the Budget Committee staff, revenue sharing was still on the books. That was an entitlement that was created to give excess Federal revenues to the States, but it turned out there were no excess revenues to share. Finally they repealed that entitlement, but it took three separate stakes through the heart. That entitlement would not stay dead, and people kept trying to bring it up again and again.

Mr. LINDER. I was in the State legislature at that time, and we kept spending programs going on that we had started with the revenue-sharing money and then picked up the bill elsewhere.

Mr. HASTINGS. One of the areas that I happened to focus on here, and I tend to focus on, we were talking about spending in terms of GDP and the whole economy and so forth, and I tend to focus on what the average tax burden is for each individual. When you add local, State and Federal—and, of course, Federal is the biggest component of that, that figure has gone up, it is around 38, 39 percent on the average—and what disturbs me as we go into a global economy, where we have to admit we are a global economy, we cannot pretend that it is not there, it makes it harder for us to compete in that global economy unless people have more discretionary dollars to spend.



So when I look at tax cuts, I look at it from that standpoint recognizing it has an impact on the Federal budget, but also recognizing that we will continue, I hope, to lead the world, but the only way we can do that with a smaller population is to have more dollars for us to invest around the world. So I tend to look at it from that standpoint, and I know that is off the subject.

Mr. Greenstein, you mentioned that you are probably the only one opposed to the process, and then I had to go vote, and I came back as you were wrapping up. I wanted to ask you—if you said this, I apologize for having to ask you again. You didn't say that you were defending the status quo or the status quo is good. And if you didn't say that, what do you think some reforms ought to be in the budget process, because I think most people will agree that it is broken.

Mr. GREENSTEIN. Let me start by saying on the one hand I think there are improvements that can be made. So I am not simply saying keep the status quo. I would disagree that the budget process is broken. There are problems in it, but it has actually worked much better in the last 10 years than we often give it credit for.

The Budget Enforcement Act of 1990 had two major elements. It set discretionary caps. I don't hear most people talk about abandoning the concept of discretionary caps. And while it is true that they got stretched in last October's bill, and the emergency designation was overused, and frankly that has happened again in the current supplemental, I think that is a reflection of the fact that the current caps are unrealistic. But if you look at the last 9 years as a whole, most of us predicted in 1990 those caps would not last very long, and they would be breached by much larger amounts than they did. They held much better than any of us forecast they would.

Similarly, the pay-as-you-go rules have been very effective. They have frustrated both people who want entitlement expansion and people who want tax cuts. Martha and I feel that they have served their purpose. I remember in the early 1990s when we had projections of \$600 billion deficits. Clearly there have been faster rates of economic growth, and revenues have been faster than forecast, but we also should give a lot of credit to the fact that the caps and the pay-go rules really contributed a lot.

In that context, part of the testimony that I made when you were voting was that one of the things that I am most concerned about in the bill is I think it weakens the pay-as-you-go rules too much. It allows the entire projected non-Social Security surplus to be used for either tax cuts or entitlement increases without any offsets. When you take into account the fact that in the past our projections of both surpluses and deficits, for more than a year or two into the future, have been way off, I think it is much too fiscally dangerous to say that 100 percent of a projected surplus can be used in this fashion. We ought to maybe allow a fraction of the projected surplus to be used in this fashion, with the fraction declining the farther you get into the future, because projections are more uncertain farther into the future, and the farther you get into the future, the more question there is about whether the projected surplus will actually materialize.

The kind of thing that is in this bill that I think is useful is reform of Federal insurance programs. I think there are some problems with exactly how it deals with emergencies, but we clearly need some tightening up. I think what we need in the emergency area is a combination of more realistic discretionary caps and tighter enforcement of them by not allowing the emergency designation to be misused.

Now, I am a critic of the bill, but I will say a positive thing here. It has a provision which makes sense, which says its changes in the emergency provisions only take effect after the caps are changed, because it recognizes that its provisions to change the emergency rule aren't realistic in the context of the current law. The kind of thing that I think could be—and this doesn't take a wholesale change—the kind of thing that needs to be modified in the emergency area of the bill is if you have used up the projected surplus, and you are right in balance, and what is clearly a big emergency comes along, it could be a national disaster or a foreign military involvement that the United States is called upon to respond to, if that entails spending above and beyond the emergency reserve the bill calls for, the bill has a provision that the Budget Committee can determine whether it is truly an emergency or not.

The problem is that there is a conflict between two provisions of the bill here. If you are in balance, and something like a foreign involvement comes along, and the Budget Committee determines this really is an emergency that entails going beyond the reserve, under the bill, if not offset, that would trigger a sequester. I am not sure that was intended. It may be the unintended effect of two different provisions of the bill. I only noticed this in the last 48 hours. I had not noticed this combined effect when I first read the bill months ago.

I think the bill ought to say if it is really an emergency, it doesn't have to be offset, but it really has to be an emergency. Instead, where we are now is, we classify things that are not emergencies as emergencies, and then a number of Members of Congress say emergencies need to be offset because of the designations. I think those are examples of things where we do need improvement in the process.

As I went through my concerns, I said that the things that I think are problematic are more serious than the improvements. But if we can do a bill with the improved parts in it, it is useful to make improvements in the budget process. Those two areas, emergency insurance and accounting for insurance programs, are clearly areas where we can make strides.

Mr. HASTINGS. It appears to me, and your explanation of that, what drives some of those decisions are policy decisions that every Congress would have to face regardless of what the process is, policy decisions on what the priority is in one area, and what we are simply putting in place is a check someplace along the line you have to answer A before you proceed to B.

It appears, to me anyway, some of the criticisms that you have, those are smaller things than the idea that we need to start this process early on. I have no doubts, however, that can get done, but we will have to see about that. Policy decisions we are going to be faced with, I suggest that when the reserve is set up, somebody

will set up a new definition of emergency, I should say, and there will be a big fight. But these decisions are faced by every Congress regardless of what process we have in place.

Mr. GREENSTEIN. Sure, but the budget rules have a big impact. Without the caps, we would spend more on discretionary programs. Without the pay-go rules, we would have expanded taxes and entitlements more, and we would still have budget deficits.

Part of what I am saying is, while there are a number of small areas like the emergency designation where the bill tightens the process, I view the bill as a whole as weakening fiscal discipline primarily because of the changes it makes in the pay-go rules, which I think go too far.

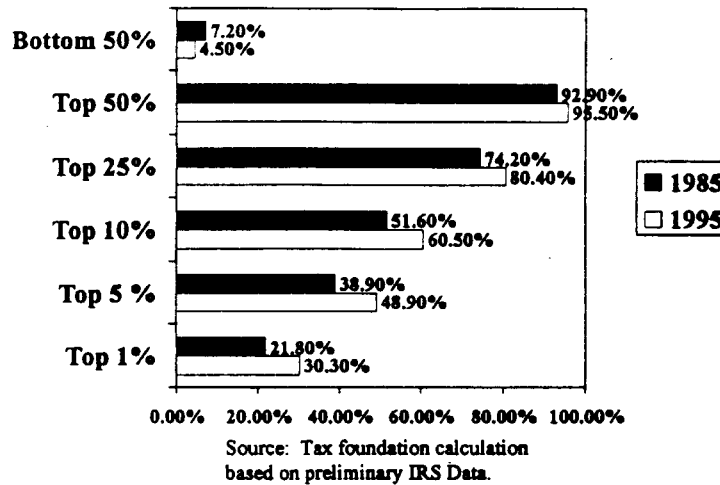
Mr. HASTINGS. With the Balkanization, I would agree with you, Professor, on that. I think our problem is 435 Members here. That is the problem.

Mr. LINDER. Mr. Sessions.

Mr. SESSIONS. Mr. Chairman, I would like to ask unanimous consent to have submitted in the record this document which would support your theory of dollar amounts used, and I appreciate the opportunity to do that.

Mr. LINDER. Without objection.  
[The information follows:]

Percent of Federal Individual Income  
Taxes paid by Income Group  
for tax years 1985 & 1995.



10 A The Wall Street Journal Wednesday, December 16, 1998

## Number of income tax-free Americans nears 48 million

Associated Press

WASHINGTON — Nearly 48 million Americans will pay zero income taxes for 1998, thanks in large part to the new \$400-a-child tax credit, according to a congressional study released Tuesday.

At the same time, the Joint Committee on Taxation estimated that people at the higher end of the income spectrum — more than \$100,000 a year — will shoulder 62 percent of the 1998 income tax burden, compared with 56 percent the year before.

The 47.8 million Americans who owe no income taxes represent more than a third of the people required to file tax returns. The total paying zero is up from 46 million in 1997.

The jump is traceable mainly to the child tax credit, which is new for 1998 tax returns due April 15. Parents can claim the \$400 credit for each child under age 17 — including stepchildren and foster children — subject to certain total income limits.

For many, this credit combined with others will erase any tax liability for the first time.

"This is designed to help families, to give them a little extra break," said J. Randy Penn, a tax planner at H&R Block. "These credits are designed to pay as much of your taxes for you as possible."

For families with one or two children, the credit can reduce income taxes to zero but not trigger a refund. But for families with three

or more children, a portion of the total credit can result in a refund, according to the Internal Revenue Service.

The total credit for all children in the family drops by \$30 for each \$1,000 a taxpayer's adjusted gross income exceeds \$110,000 for married people filing jointly, \$55,000 for married people filing separately and \$75,000 for single filers.

Next year, the child tax credit increases to \$500.

The millions of people who pay no income tax are still subject to the taxes that pay for Social Security and Medicare, which amount to 7.65 percent combined.

But the Joint Committee on Taxation study demonstrates a continuing shift in how U.S. government

operations ranging from the Army to welfare are paid for. The 52.4 million taxpayers earning more than \$40,000 will pay 95.3 percent of the nation's income taxes in 1998, up from 93.6 percent a year earlier.

Most of those owing no income taxes earn less than \$20,000 a year. By contrast, less than 1 percent of people earning more than \$75,000 a year pay no taxes — and the average tax liability for those between \$100,000 and \$200,000 is \$19,688 for 1998.

Enacting a tax cut in the next two years depends in part on whether lawmakers and President Clinton can agree on a plan to guarantee Social Security remains solvent in the future.

## Who Pays Federal Individual Income Taxes, 1985

	Number of Returns (000)	AGI (\$000,000)	Income Taxes Paid (\$000,000)	Group's Share of Total AGI	Group's Share of Total Taxes	Income Split Point	Average Tax Rate	Average Tax Paid
All Taxpayers	100,625	\$2,343,989	\$321,916	100.0%	100.0%	-	13.4%	\$3,199
Top 1%	1,006	235,095	70,209	10.0	21.8	above \$108,134	29.9	69,773
Top 5%	5,031	531,372	124,850	22.7	38.8	above \$58,883	23.5	24,815
Top 10%	10,063	791,481	165,652	33.8	51.5	above \$46,322	20.9	16,462
Top 25%	25,156	1,358,860	238,419	58.0	74.1	above \$30,928	17.6	9,477
Top 50%	50,313	1,939,351	298,842	82.7	92.8	above \$16,688	15.4	5,940
Bottom 50%	50,313	404,638	23,074	17.3	7.2	below \$16,688	5.7	459

## Who Pays Federal Individual Income Taxes, 1995

	Number of Returns (000)	AGI (\$000,000)	Income Taxes Paid (\$000,000)	Group's Share of Total AGI	Group's Share of Total Taxes	Income Split Point	Average Tax Rate	Average Tax Paid
All Taxpayers	117,274	\$4,244,607	\$586,128	100.0%	100.0%	-	13.8%	\$4,998
Top 1%	1,173	619,651	176,836	14.6	30.2	above \$209,105	28.5	150,788
Top 5%	5,864	1,222,682	285,904	28.8	48.8	above \$96,104	23.4	48,758
Top 10%	11,727	1,704,512	354,747	40.2	60.5	above \$72,092	20.8	30,249
Top 25%	29,319	2,689,803	470,560	63.4	80.3	above \$44,147	17.5	16,050
Top 50%	58,637	3,627,540	559,045	85.5	95.4	above \$22,361	15.4	9,534
Bottom 50%	58,637	617,067	27,083	14.5	4.6	below \$22,361	4.4	462

Source: Tax Foundation based on preliminary IRS Data.

Mr. SESSIONS. I know that we are into a whole bunch of processes. Is there any belief that the Congress is addressing properly the Social Security issue, any one of you, by us trying to have a resolution to take Social Security off budget to where all of the money and interest would flow? Are we going to get any credit for that?

Mr. GREENSTEIN. It is already officially off budget.

Ms. PHILLIPS. It has been taken off budget three different times by acts of Congress, signed into law by the President.

Mr. LINDER. Most recently in 2001.

Ms. PHILLIPS. It was done in 1983 to be effective later, and in the 1985 Gramm-Rudman Act they did it again and said, we want it to start right away. It was later reaffirmed again and again. But, until you can get people to forget the existence of Social Security and its surpluses, you are going to know that they are there.

Mr. SESSIONS. So what can we do then? Is that the first responsible act, or are you saying that it was not responsible?

Ms. PHILLIPS. I think the responsible thing to do is to address the tough issues. We have unfunded liabilities that far exceed anything we think taxpayers in the future are going to be willing to finance, particularly because you can't just look at Social Security alone, you have to recognize that almost every one of these people also expects to be getting Medicare, and that this is a double burden.

Mr. SESSIONS. What is the first step that you recommend?

Ms. PHILLIPS. Some combination of—to be officially Concord neutral, getting the future expenditures and future revenues more in line. I would suggest that because you have an unusual situation of a bulge in the elderly population beginning in ten years followed by a permanent aging of the population, having each generation to the greatest extent possible prefund some or quite a bit of its own benefits is good for the economy and is generationally responsible.

Mr. SESSIONS. If you prefund, isn't that the same as taking it off budget and keeping it in a fund?

Ms. PHILLIPS. Only when it is entirely out of the budget—it has been off budget since the first surpluses in Social Security began to build up after the 1983 legislation. We started seeing appreciable surpluses in 1985. We spent them. It has been off budget. But if you have Social Security surpluses safely off budget, and over here, on the budget, you run big deficits, economically the effect is to use the Social Security surpluses to finance the on-budget deficits.

Mr. SESSIONS. But we are not doing that anymore.

Ms. PHILLIPS. We will see.

Mr. SESSIONS. What is the first step? Is the first step hitting a home run or learning to walk?

Ms. PHILLIPS. The first step is addressing the problem in the unfunded liability in the program. That is extremely hard because it means telling younger people now what many of them already suspect, which is that Social Security is not going to pay them the "huge" \$12,000 that people are getting from it today on average. It is going to be less.

Mr. SESSIONS. So you don't think that it is practicable to take it off budget?

Ms. PHILLIPS. We have already taken that step a couple of times. If you want to do it again, I have no problem with it. If doing it a fourth time makes you live up to the rule, great. But I am a little cynical that four times is going to be magic when three times hasn't been.

Mr. GREENSTEIN. I largely agree with Martha. I think there might be some process things that you could do with points of order and supermajority points of order that would help.

Having said that, if you look at some of the proposals that are around now, they are all far from foolproof. The bill that Mr. Herger and Mr. Shaw introduced attempts to say that you could not use the Social Security surplus for other spending, but there is an exception for any legislation that Congress classifies as Social Security or Medicare reform legislation, and there is no definition what that means. The bill that Senator Abraham and Senator Domenici have introduced ties itself to specified levels of the publicly held debt, but there is a view which I think may be shared by the Treasury, Senator Roth, and perhaps Chairman Archer, that that approach poses too great a risk in terms of default and the debt.

The bottom line, I think, as Martha has said, is that the only way to address the problem is to address the problem. Martha and I have differing views on exactly what to do in Social Security, but I think we would share the view or share the concern that both parties are too attracted to what we would call the free lunch approaches, trying to solve the long-term imbalance between benefits and payroll tax revenues without raising revenues or cutting benefits. Both parties are looking at approaches that pour tons of money from the rest of the budget into the retirement system. It is unclear where that money comes from when the baby boomers retire.

At the end of the day we have to be willing to do some benefit modification, some payroll tax increases or a combination of the two, or we are going to have an approach to fixing retirement security that either won't last, will cause overly large reductions in basic government functions or overly large tax increases, or eventually will bring back deficits in a big way. That is the single most distressing part of the debate. Each party is afraid that if it proposes any substantive structural changes, the other party will jump on it and attack it. I think that is preventing us from making progress.

Mr. LINDER. Professor Muris?

Mr. MURIS. The most important step is to make the economy as big as possible to make it easier to support the baby boom. There are three steps we can take.

First, we ought to guarantee that the Social Security surpluses cannot be spent. The way to do that, is to set up individual retirement accounts so that the money is committed.

Second, we need to take the on-budget surplus and give that back to the people in tax cuts. They will use that money better than the government would.

Third, one of the reasons that the economy has been so robust is that we have had an incredible amount of indirect deregulation through things like internationalization, the Internet, and computers. We ought to make sure that the plans in Washington to regulate fail. Moreover, we ought to have significant regulatory reform that would further encourage increased productivity in the economy.

Mr. SESSIONS. Well, obviously I am pleased to hear that. I will tell you that part of your observations, and I will not call them cynical observations, part of your observations, I believe, are very true, and that is we—even looking at the Republican side, there is some unpredictable behavior as to what we are really after. But yet I would like to tell you that we will be, as with the last debate that was made—that we are attempting to increase the amount of wealth held by the middle class of this country and to encourage behavior that would include savings and allowing the individual to have that \$2,000 in their pocketbook.

I am an optimist, and I believe we are going to create a circumstance where we will continue to have good fishing and good economy. That will come with the fiscal restraint that you do talk about.

Thank you, Mr. Chairman.

Mr. LINDER. Just one more question. The strength of Social Security was that it was 40 employees for every one retired in 1935. It is now approaching two for one. Can the structure survive? Can just the basic structure survive?

Ms. PHILLIPS. Not the way that it is now structured. Something has to give. There is a big long-term problem out there. This bill is helpful, but the problem is still out there.

Mr. LINDER. I am so much opposed to raising the payroll tax because you are asking so much more from fewer and fewer people. Five million people have opted out of Social Security. There are fewer and fewer payers for more and more retirees.

Ms. PHILLIPS. You cannot solve this problem on the payroll tax. It is already the largest tax for most working-age families.

Mr. LINDER. Seventy-four percent.

Ms. PHILLIPS. If you are talking about payroll tax supporting Medicare Part A and Social Security, it doesn't take much imagination to get you up to 35–40 percent payroll tax when the full brunt of the aging process has occurred. That simply is not going to happen in the United States of America, so we have to deal with the benefit side, and we have to deal with having each generation to the extent possible prefund its own benefits.

If I had my druthers regarding what to do with the surpluses, I would park them in individual accounts or some sort of a mechanism where the Treasury pays it right to the retirement accounts of every worker age 45 and younger, which unfortunately would leave me out. It could only be used to finance retirement benefits. That way you would get it off the Federal books so it could not be used for anything else. It would be increasing national savings, which would help the economy grow. It would also be there as a partial funding to make it possible then to say, okay, now that you have got this nice nest egg building up from the surpluses from the



first decade of the century, we can peel back the government benefits a little bit because your grandchildren can't pay for them.

Mr. GREENSTEIN. Let me say that there are fundamental debates on what would be a better way to go, should one convert part of Social Security to individual accounts or not do that. I think that is not the way to go.

I did want to say that if you look at the long-term figures, you cannot sustain Social Security without any changes. You can sustain it within what I would call the current basic structure. You have to be willing to make some changes in the benefit formula. You can do it without raising the payroll tax rates. You have to be willing to make some changes, but you don't have to replace it with something else such as individual accounts. There is a debate on whether one should or shouldn't, but what is clear is that you have to do something. We cannot simply leave it exactly as it is now.

It is also clear that you can solve Social Security's problems without any benefit or tax changes if you pour in enough money from the rest of the budget, but then you squeeze the rest of the budget too much. So if you want to be able to deal with other issues as well, you have to be willing to make some changes in Social Security.

Mr. MURIS. I teach graduate students, who are mostly in their 20s, and when you talk to them about Social Security they laugh. Their cynicism is appropriate, unless we make the fundamental change that I talked about before to guarantee that those benefits will continue. Again, far and away the most important step is concentrating on policies that make the size of the pie as big as possible.

Mr. GREENSTEIN. Where we would differ on that last comment is whether you have to do that through individual accounts or you can do more prefunding of the Trust Fund, but we would all agree that we should advance-fund.

[Questions and answers submitted for the record]

**Submitted Questions and Answers**  
**Timothy J. Muris**  
**Foundation Professor, George Mason University School of Law**

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1. H.R. 853's proposal to give the budget the force of law by creating a joint budget resolution is predicated on the premise that early agreement on aggregates will produce a smoother and more efficient process. Your testimony touches on this point in suggesting that you think this is a worthwhile change in the existing process.

Based on your experiences at OMB, what is your assessment of the validity of that premise? Do you think that we have gotten the formula for the joint budget resolution model right?

2. What is your assessment of the bill's provision of a fall-back to a concurrent resolution if the President vetoes the joint budget resolution?

**ANSWERS TO QUESTIONS 1 AND 2:**

I support the joint resolution because Executive-Legislative negotiation over the totals is a step toward exercising more control over the entire budget. After all, the federal government does not even have a "budget" in the sense that most states do. I do not know whether this change will produce a better process in a procedural sense. In any event, the fall back procedures if the president vetoes the resolution will mitigate against procedural chaos.

3. You boldly suggest that entitlement status should be ended for all entitlements except those that are earned, such as Social Security.

How would you go about implementing this type of sunseting without subjecting Congress to the charge that it is reneging on commitments it has made to provide certain benefits?

**ANSWER:**

Because recipients contribute to "earned" entitlements, I believe the "fairness" point has some merit for these programs. For other programs, such an argument does not exist. Moreover, the fiscal health of the country should be our paramount concern.

4. What would be your recommendations for the "penalties" you allude to in your testimony in the event that Congress fails to reauthorize programs

on a periodic basis?

ANSWER:

A penalty of stopping these programs without authorization is too great. It would discourage program changes in all but extreme circumstances. A penalty of a small reduction from the previous year's level - e.g. 10 percent - would encourage needed modifications. (For programs that require modifications to increase spending, there is no need for additional incentives - under the current system, increases are the norm).

5. Your testimony includes a footnote regarding the Byrd rule and reconciliation bills - you propose a modification of the Byrd rule with respect to the baseline.

Could you elaborate on this suggestion? Do you have any further guidance for us about how to deal with the disparity the Byrd rule creates between the House and Senate in negotiations over budget-related legislation?

ANSWER:

I would modify the Byrd rule to make program expansions much more difficult. The Houses' concerns with the Byrd Rule could be addressed in part by simplifying the rule and by codifying its interpretations.

6. H.R. 853 attempts to define an "emergency" for which funds may be assigned from the reserve fund the bill creates. These criteria provide parameters for the term "unanticipated" including "sudden," "urgent," "unforeseen" and "temporary."

What is your view of the criteria that have been enumerated in H.R. 853 for "emergency" spending?

ANSWER:

No set of criteria alone will necessarily solve the problems. The bill's criteria are appropriate, and coupled with the other provisions, help address this loophole to the caps.

**Submitted Questions and Answers**  
**Martha Phillips**  
**The Concord Coalition**

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1. You state that "the 20 budget functions provide useful information but that they have nothing to do with budget enforcement." You go on to state instead "that budget discipline is enforced through aggregate limits on direct spending, discretionary defense and discretionary non-defense spending, deficits and the debt."

Would you comment further on the nature of the role a joint budget resolution would play in the area of congressional budget enforcement as opposed to the current concurrent resolution? Specifically, how, if at all, do you think this may change?

ANSWER:

I do not believe there would be major changes in the enforcement of aggregate limits on the deficit or surplus, discretionary appropriations, enactment of new direct spending, or reduction of revenues under a joint budget resolution. The application of these Congressional enforcement procedures would simply be based on levels contained in a Joint Resolution rather than levels contained in a Concurrent Resolution.

Would the aggregates contained in a Joint Resolution be enforced more or less stringently than those contained in a Concurrent Resolution? It depends.

It is possible that the Congress and White House could agree on aggregate levels while having considerably different priorities regarding what specific programs and policies those aggregate levels should comprise. This could result in attempts by each side to get its way, with the possible result that enforcement could break down as each Branch tried to reach a political resolution that would enable it to claim victory. Nevertheless, given the considerable bargaining and negotiation that would have to occur even to reach agreement on a Joint Budget Resolution signed by the president, there could well be a greater tendency for both branches to "buy into" the Joint Resolution and vigorously enforce it. It could turn out that Congressional leadership would discourage even more vigorously than they do today any attempts to exploit loopholes or otherwise violate the levels agreed to in the Joint Resolution.

2. In your prepared statement, you argue that "a joint budget resolution linked to strengthened enforcement procedures could help to prevent end game spending gluts in the future."

Would you comment on what you view these strengthened enforcement procedures to be in H.R. 853 and if they are not contained in this bill what those procedures may be?

ANSWER:

In addition to the points of order against legislation that would violate Budget Act restrictions, the strengthened enforcement procedures that I had specifically in mind that would help discipline the end game situation were: Reserve fund for emergencies; Requirement that expenditures meet emergency criteria specified in the Budget Act; Budget Committee "traffic cop" role to permit or deny emergency designations in excess of reserve fund; Requiring CBO to score conference reports and to provide 10 year cost estimates for legislation; Requirement that Rules Committee spell out justification for each waiver of Budget Act points of order; and automatic continuing resolution at prior year's level (excluding emergencies).

3. A prevalent concern with the budget process is its approach to emergency spending. You have spoken eloquently of the value inherent within a definition of what constitutes an emergency spending item.

Given your years of service on Capitol Hill and your hindsight on the creation of the existing emergency spending process back in 1990, would you comment further on the value of the definition utilized in H.R. 853?

Background:

H.R. 853 defines an emergency as:

- a situation that requires new budget authority and outlays for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security and a situation that is unanticipated.

And defines the term unanticipated as an underlying situation that is:

- sudden, which means quickly coming into being or not building up over time;
- urgent, which means a pressing and compelling need requiring immediate action;
- unforeseen, which means not predictable or anticipated as an emerging need; and,
- temporary, which means not of a permanent duration.

ANSWER:

It is no easier today than it was in 1990 to develop an air-tight, iron-clad definition of what constitutes an "emergency" for budget enforcement purposes. However, informal criteria have been used since 1991 to justify whether particular expenditures should qualify as emergency spending or should be offset. H.R. 853 proposes to make these informal criteria explicitly part of the formal enforcement. In addition, H.R. 853 sets up a annual reserve fund for emergencies and provides that resources can be

released from this fund only for purposes that meet the proposed new criteria. The combination of the reserve fund and the criteria should go a long way to closing the gigantic loophole that emergency spending has become.

The proposed criteria cover what most reasonable taxpayers would consider to be justifiable emergencies. They would however exclude funding for long-standing needs that have been turned down in previous years' discretionary appropriations cycles and ought properly to be funded within the discretionary caps: embassy security upgrading, military construction, advance defense procurement and preparing the government's computer systems for the year 2000 are examples that come to mind. They would also exclude funding for situations that, while serious, are not so urgent that they could not wait for the next round of annual appropriations.

How would the emergency criteria be applied to the recent supplemental appropriations for Kosovo activities and disaster relief? Emergency appropriations for Kosovo were double the amounts requested by the President. Much of the add-on was for routine, not emergency, spending and would not have met the criteria. Similarly, such items as the loan guarantees for steel companies and loans to small oil and gas producers would not have met the criteria. Proponents of those measures understood that if their provisions were not included in emergency "must pass/must sign" legislation, they had little chance enactment on a stand-alone basis. These are exactly the kind of provisions the emergency definition is aimed at preventing.

Legislation introduced in the Senate proposes creating a 60-vote point of order against any legislation or amendment providing emergency expenditures that violates the proposed criteria. This would be a helpful additional tool to hold emergency spending to the unusual circumstances originally intended in 1990.

4. You commented briefly on the various proposals contained in H.R. 853 which seek to encourage more accountability and justification in the manner by which Congress creates new entitlement programs. I would like to get your thoughts on one of those provisions in particular.

Section 412 of the bill attempts to build a bias into the legislative process against creating a new program as an entitlement. It seeks to achieve this objective by providing for the privileged consideration of an amendment on the House floor to transform a proposed new entitlement program into a discretionary program subject to the constraints and oversight of the annual appropriation process. The intent here is to afford Members the opportunity to make that case as to why or why not a new program should be placed in the mandatory sector of the Federal budget.

Could you comment on this idea?

ANSWER:

As I mentioned in my testimony, entitlements are rather like discretionary programs that have "gone to heaven." They hold a permanent "free pass" good until the end of time (or until the rare instances when their entitlements are revoked) for as much funding they need. Therefore, it is understandable that advocates of discretionary

programs would almost always prefer entitlement status to discretionary status since funding uncertainty would never again be an issue. The provision in H.R. 853 to provide for privileged consideration of an amendment on the House floor to transform a proposed new entitlement program into a discretionary program is an excellent one. It would raise the bar for creating new entitlements by giving the Chairs of the Budget Committee and the Appropriations Committee (or their designees) an opportunity to offer such an amendment. With such an amendment in their arsenal, the Budget and Appropriations chairs would have additional leverage to work out an accommodation with the proponents of the new entitlement in advance of consideration of legislation on the Floor. Many new entitlements are rather small direct spending provisions rather than major high profile entitlements to benefit large categories of recipients. Such small direct spending changes nevertheless add up and constitute a significant loophole in budget process enforcement. This proposal would make sure they are not permitted to go unnoticed or unchallenged.

5. In the final paragraphs of your prepared testimony, you discussed a number of the initiatives contained in H.R. 853 that seek to force more oversight of Federal spending and that seek to provide greater information to Members on budget related votes.

One of these proposals would require the Rules Committee to justify any rule that waives Budget Act points of order. Specifically, the Rules Committee would be required to include in its report a description of the waiver, the object of the waiver, any justification for the waiver submitted to the Rules Committee by the committee of jurisdiction, and an estimated cost of the provisions to which the waiver applies.

In reference to this particular provision you stated that "unfortunately, there remains the possibility that such justifications will become just as pro forma as the waivers they are supposed to prevent."

Would you expand upon this statement, particularly as to what you mean as pro forma and what you would suggest should be done to assure that this new requirement not become pro forma?

ANSWER:

Currently, rules governing consideration of legislation in the House frequently waive budget process points of order that lie against bills coming to the floor. No explanation is given regarding what those points of order are, why they are being waived, the cost implications of doing so, or the rationale for the waivers. Therefore, I am very supportive of the provisions in H.R. 853 that would add all of these requirements. My concern, however, is that if waivers are made so often that their justifications become routine boilerplate rather than rare and highly unusual occurrences, the new requirements may themselves become pro forma. Pro forma is defined in Webster's Dictionary as "carried out in a perfunctory manner or as a formality." Too frequent use of budget process waivers could lead to the explanations and justifications being viewed as merely "committee report fine print."

The best way to avoid this happening would be to reduce the use of budget process waivers, and insisting that legislation and amendments coming to the Floor meet both the letter and the spirit of the Budget Act.

This is especially true for waivers that involve issues of money rather than the timing of actions. So long as budget waivers are used infrequently, the new justification requirements will draw the scrutiny intended by the sponsors of H.R. 853.

Mr. LINDER. Thank you all. The hearing is adjourned.  
[Whereupon, at 12:25 p.m., the committee was adjourned.]





## **H.R. 853, THE COMPREHENSIVE BUDGET PROCESS REFORM ACT OF 1999**

**Thursday, May 13, 1999**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RULES,  
*Washington, D.C.*

The committee met, pursuant to call, at 9:30 a.m. in Room H-313, The Capitol, Hon. David Dreier [chairman of the committee] presiding.

Present: Representatives Dreier, Goss, Linder, Pryce, Diaz-Balart, Hastings, Myrick, and Reynolds.

The CHAIRMAN. The Rules Committee will come to order. We are here for the further consideration of hearings on H.R. 853. Yesterday we had a fascinating group of outside witnesses as well as the lead authors of the legislation. Today we have set aside time for Members to testify on comprehensive budget process reform. We are very pleased to welcome our first witness, the distinguished gentleman—who wants to go first? Both of you are distinguished gentleman.

Mr. GEKAS. I am yielding.

The CHAIRMAN. We are happy to recognize the very distinguished gentleman from Michigan, Mr. Smith, and we look forward to your—what you told me is a two minute presentation?

Mr. SMITH. Yes, sir.

The CHAIRMAN. It wasn't my request. Your time has just begun.

### **STATEMENT OF THE HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. SMITH. Mr. Chairman, I appreciate that Rule 23, the "Gephardt rule," is repealed in here. But what appears is that you have replaced it with provisions that you can increase the debt limit as part of the overall joint resolution.

And so on page 8, section 8, my interpretation of that provision of the bill says that you can still increase the debt subject to the debt limit, which would be sort of clouded in with the whole composition of the budget resolution. I don't see that as much different than what we have now.

So I think there should be serious consideration, or at least I would request that an amendment be allowed so that we can vote on an increase on the debt limit separately. It just seems that it is so important in terms of where this country goes, the imposition that we put on future generations by clouding, whatever the correct word is, by incorporating a couple sentences in a huge joint resolu-

tion on the budget provisions that the debt limit will be automatically increased.

So I think it would be a lot more reasonable if Members stood up and took a position as a separate vote on increasing the debt limit, simply because I think it is such an important part of not only our economic future and the reasonableness and honesty of government, but still making it a—having a little separate, more separate consideration for an issue that is so important; that is, raising the debt limit that our kids and grandkids are going to have to pay back.

John, what I just said was my interpretation of this legislation still puts an increase in the debt limit, the national debt subject to the debt limit, and includes it as part of the whole joint resolution as a provision that can be there. I would just think that this should be a separate vote.

The CHAIRMAN. Thank you very much, Mr. Smith. We appreciate you being here.

Mr. Gekas.

**STATEMENT OF THE HON. GEORGE GEKAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. GEKAS. Thank you. This is not news to the gentleman from Georgia or the gentleman from Florida nor to the gentleman from California.

The CHAIRMAN. Possibly it is to the gentleman from New York. So he should—

Mr. GEKAS. Maybe I should make my remarks to him. I think the record does require me to postulate the rationale.

The CHAIRMAN. The record doesn't require that. You do whatever you feel is appropriate.

Mr. GEKAS. In doing so, I am also making clear to the gentleman from New York what the legislation does. We have termed this legislation euphemistically as "instant replay." That is, at the end of a fiscal year, if an appropriations bill, any 1 of the 13, or all 13, have not been enacted by the Congress, then the next day, October 1, is an automatic instant replay of last year's budget.

What does this do? This ensures that there never again will be a government shutdown. The legislation that is before us for your consideration amply considers that and incorporates it into the total budget picture that you are trying to formulate in this legislation. I am very appreciative of that.

Since 1977, there have been some 17 separate shutdowns of government. That number is intolerable. That is almost once every year, almost every year. The most egregious one, and I reemphasize that every time that I have an opportunity to speak about it, when Desert Shield was being organized, when our half a million troops were being deployed to the deserts of the Middle East, during that period of time in December of 1990, while they were with musket in hand, our young people over in that desert, the government shut down. That is intolerable. They were actually armed, ready to do conflict for a government that didn't exist in one fashion, did not exist. We cannot sustain that. We cannot tolerate that.

What our legislation here does, what your legislation does is guarantee that that won't happen again.

One other thing. It is not just the Federal employees who are very supportive of this legislation—as you can imagine they would be, because it would mean that they would not have to worry about when to come to work, if to come to work, and when their next paycheck is to arrive. That is part of the mystique of all of this anyway. But more importantly perhaps, or equally as important, is the fact that contractors who do business with the government, they in their continuum of providing goods and services, come to a halt. It is costly to them. It is costly to the government and the taxpayers and causes havoc in the private workplace where these contractors depend sometimes very heavily on the revenue from a government contract to keep going in their business.

On top of that, maybe a simple thing, but it was brought home several times. The shutting up of the Washington Monument or the Smithsonian Institute is a slap in the face to the American citizens. To go to the door of one of our institutions and then be told that the government has shut down, they cannot enter. Although that is not—that won't bring the end of the world, it does show a crumbling, a little crumbling of our system that shuts off other citizens from their institutions.

Anyway, these are the basic tenets of what we do. I have reviewed the provisions in the bill and they are—they do exactly what we intend them to do.

One other fact which I cover very well: That is that the obligations that the government has as to Social Security, Medicare, et cetera, already set by other law, are unaffected by this, and they are guaranteed at whatever level their own computer indicates is due. So that the instant replay of last year's numbers may not apply to Social Security, but in all other respects, we have a continuing process that prevents government shutdown.

Well, I don't know that Doc Hastings has heard this.

The CHAIRMAN. Mr. Hastings has heard this.

Mr. GEKAS. I wanted to repeat it.

The CHAIRMAN. We have a spectacular record that was developed on this issue. You see what we have done?

Mr. GEKAS. Yes, it is excellent. I am very happy about that.

The CHAIRMAN. We appreciate your tenacity. It most likely would not have been incorporated in the bill if it were not for your regular appearances before the Rules Committee. However, we want to say there are other ways to get it to appear in legislation other than appearing before the Rules Committee.

Mr. GEKAS. I suppose there are.

The CHAIRMAN. We appreciate your efforts on this very much, Mr. Gekas.

Mr. GEKAS. I do want to thank the three men who are facing me here because they have been here with me from the beginning on this. And now the two others are going to be imbued with the same fervor as the gentlemen from California, Florida, and Georgia.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Gekas follows:]

**Statement of Congressman George W. Gekas (R-PA)**

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Mr. Chairman, I am grateful to the Committee for inviting me to speak on the merits of the Government Shutdown Prevention Act, legislation which would free budget negotiators of the pressures of knowing that the government will cease operations if they are unable to come to a compromise. This is a winner regardless of your point of view.

Included in H.R. 853 is language which I have introduced with bipartisan support in every Congress since 1989 that removes the threat of the government shutting down due to an impasse in budget negotiations. This legislation reduces the end of fiscal year chaos that often occurs when the budget negotiations break down by ensuring that the government will keep operating while the appropriators complete their work – in effect, it serves as a permanent automatic continuing resolution, providing for funding at the previous year's levels.

Each fall our constituents should not be concerned about whether their government will shut down. Veterans have a right to expect their benefits checks on time. So do seniors on Social Security and Medicare. Federal workers rightfully expect the opportunity to go to work every day without dramatic interruption.

As Members of Congress, we want the ability to stand tall and tell our constituents that the government will not be shut down. In the past, Washington was a town known for its ability to find a compromise on almost any issue. Ideological showdowns may have their place, but it should not be to wreak havoc on the workings of the government.

When the government shuts down, the American people see a government that is unable, or unwilling to compromise. Instead of placing blame on our respective opponents, we should demonstrate to our constituents that political differences will not prevent the government from continuing operations.

This legislation is win-win. It does not create new programs, nor does it cut current ones. It simply allows budget negotiators to work without the threat of a shutdown. I urge the Committee to approve this language and report this legislation favorably.

I will be happy to answer any of your questions.

The CHAIRMAN. Mr. Goss may have a question.

Mr. GOSS. I think I understand it.

The CHAIRMAN. We are starting to understand it.

Mr. GOSS. The issue is not one of comprehension. The issue is one of how to deal with it and how to take a good idea and put it into affect. I think that you know that has been a part of our goal. As I think that you know in our process, this has gotten a lot of attention. I can assure you that it is going to get a lot more, whether we want it or not, as we go along. We hope that you will be ready to explain it to some others.

Mr. GEKAS. We will.

The CHAIRMAN. Mr. Linder.

Mr. LINDER. I do appreciate the issue.

The CHAIRMAN. Mr. Hastings.

Mr. HASTINGS. There was a witness that was critical of that provision of the bill, saying that this would cause the Congress to take the path of least resistance and therefore that would be the path that they would take, rather than to face up to the issue and pass appropriations bill. What do you respond to that?

Mr. GEKAS. We reject that. Each fear brings new areas and new areas of concern. The appropriators and Members of Congress that see something that needs to be changed in the next fiscal year are not going to be satisfied permanently with last year's numbers or last year's speeches with a particular piece of legislation.

So this dynamism that the Congress has normally will carry to today when it comes to making sure that next year's appropriations bill does have features that are required by a majority of the Congress, even though for temporary purposes we have fallen back to the instant replay.

Mr. HASTINGS. Thank you.

The CHAIRMAN. Mr. Reynolds.

Mr. REYNOLDS. I would just thank the gentleman for his insight and time.

The CHAIRMAN. Mr. Reynolds is such a bright guy that he grasped it with your first presentation. They have improved over the years. We thank you very much and look forward to it.

The CHAIRMAN. I just saw Mr. Barton. I believe he is our next witness and we are happy to welcome the gentleman from Texas, Mr. Barton. You are welcome to summarize your remarks.

#### **STATEMENT OF THE HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. BARTON. Thank you, Mr. Chairman, other members of the committee, especially our Minority friends, here in spirit if not in person. I have testified before this illustrious group a number of times on budget process reform. I think with Chris Cox, myself, and Mr. Nussle a lot of progress was made in the last Congress—Mr. Goss, I should put his name in the loop. He worked very hard. So I do have a written statement and I will put it in.

The CHAIRMAN. Without objection it will appear in the record.

Mr. BARTON. The main thing that I would ask you to do is I think this Congress really, really needs to move the bill. The process that we were working under was passed in the mid-seventies.

It enhances the expansion of entitlements. It enhances the ability of a few Members, late in the session, to do back-room deals. It gives the President unusual power, again in light of Congress, if not to extort the Congress, to make it very difficult to maintain the spinning of the caps and things like this.

I have not introduced a comprehensive bill in this Congress. I am going to do that in about two weeks. I am working on it right now. If you take the package that Mr. Nussle and Mr. Cox and myself, Mr. Salmon, and Mr. Goss put together the last Congress, we probably need to fine-tune it a little bit, but I think that would be an excellent package.

Some of the elements are that I think we should go to a two year budget process. Not everybody agrees to that but we operate on a two year cycle. It would be good to have a two year budget process. I think that you eliminate the supplemental and you put in a rainy day fund to set aside a certain amount each year. You put definitions about what qualifies for emergency spending.

And then in my bill, again this is somewhat controversial and I know the Chairman has a concern about this, but I put in a super-majority requirement in order to override the definition to take money out of the emergency supplemental account.

I guess I will kind of end it there. I will put the testimony in the record. I would be happy to answer questions. I do again encourage you to try to move a bill as soon as possible. This would be one of the most important things this Congress could do is to change the budget process.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Barton follows:]

**Statement of Congressman Joe Barton (R-TX)**

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I want to thank Chairman Dreier and the other members of the Rules Committee for holding this hearing on HR 853, the Comprehensive Budget Process Reform Act of 1999, introduced by Congressman Nussle. I am proud to be a cosponsor of this legislation and glad to have the opportunity to testify here today. Since the Republicans have taken the majority, I have been a strong supporter of budget process reform. As I have said to this committee in the past, budget process reform is an essential key to reaching and maintaining a balanced budget. Passage of meaningful process reform would leave its mark on this Nation for generations to come. In the last Congress, I introduced HR 2003, the "Budget Enforcement Simplification Trust" Act, or the "BEST" bill. This legislation recognizes the need for discipline and order in making spending and revenue decisions at the federal level. I plan to reintroduce this Congress' version of the BEST bill shortly.

There are many issues that Congressman Nussle's bill addresses that should be central to any budget debate. For example, I support the idea of a joint resolution. A joint, rather than the current concurrent, resolution would bring the President into Congressional budget deliberations and make him accountable for its success or failure. And, because the President would have the authority to veto an unacceptable resolution, a joint resolution would require Congress to pay attention to Presidential concerns. Unlike the current budget process, this new framework would make both the Executive and the Legislative branches stakeholders in the resolution's outcome and require them to agree on overall spending and revenue levels, annual deficits, total debt levels, and on the allocation of resources among budget functions and committees.

I am also glad to see included in HR 853 the creation of a Reserve Fund which would replace the "emergency" supplemental appropriations bills which have become a catch-all for non-emergency spending schemes. Disbursements will be only for certified natural disasters with tough procedures to ensure spending on only its designed purposes. An "emergency" should not be defined as a requirement lacking budgeted funds. Congress has become too reliable on labeling increases in spending as an "emergency" designation, when in fact, the emergency at hand does not coincide with the spending levels considered.

I am also supportive of the provision in HR 853 that states the enforcement of paygo rules should be waived in any year in which the non-social security budget is in surplus, excluding Social Security surplus.

HR 853 also budgets for insurance programs on an accrual basis, which is the budget records net cost or receipts on a present value basis at the time the government commits to provide insurance. While I did not offer a similar provision in my BEST bill, I also see merit in this responsible treatment of insurance program transactions.



While Congressman Nussle's bill, HR 853, contains many similar provisions to my BEST bill, there are differences in the two. For instance, my BEST bill would call for a biennial budgeting process, while Mr. Nussle's bill retains the annual budget and appropriation process. Our proposals also differ in that while there is a provision in my BEST bill that would set caps on entitlement and other mandatory spending, no such provision is included in Mr. Nussle's proposal. Lastly, while HR 853 does not address enhanced rescission, my BEST bill creates an expedited process for consideration of Presidential rescission proposals.

Despite the differences in our proposals, there are many similarities and common goals set forth between our proposals. For this reason, I am here today in support of Mr. Nussle and his efforts in HR 853.

### **Conclusions**

The federal budget process is decentralized with a vengeance. Too many Executive branch agencies, too many Congressional Committees and subcommittees, go through too many steps each year, until it seems that no decision on spending and tax policy ever is final. The process is replete with duplication, overlap and redundancy. Complexity compounded by confusion undermines accountability. We speak of so-called "uncontrollable spending" as if those federal outlays resulted from natural laws rather than statutes enacted right here on Capitol Hill.

It is time to make government and the budget process more accountable and use public accountability to encourage Congress and the President to live up to the promises made in the budget process every year. As we consider budget process reform, we should keep the following points in mind:

- We need to be concerned about government accountability. The polling booth is the market clearing house of democracy. When government becomes so complex that concerned voters, willing to spend a reasonable amount of time, cannot understand the Federal budget, the system breaks down.
- Public accountability is the most effective instrument we know to ensure government accountability. Congress and the Administration often fail to live within the budgets we currently adopt. It should be more difficult *not* to live up to what we promise.

I am convinced that real, binding spending limits hold the key to serious budgetary restraint. We can balance the budget any number of ways, but in order to maintain a balanced budget, we must agree that there is an amount of money more than which we will not spend, and stay within that limit we have set on spending. I believe we should hold individual committees and subcommittees responsible for excess spending in their jurisdictions. And we should force a separate vote any time we want to raise the spending limits in the budget.

This system will work because our constituents will understand it. And that is where public accountability comes into play. Nothing here would keep

Congress and the President from "busting the budget". But if we do bust the budget, under this system, the media will know and our constituents will understand, whom to hold accountable. That is the best, most healthy kind of enforcement mechanism in our system of government.

The CHAIRMAN. As you know, that is why we are sitting here. It is a priority for us. You use the term "fine-tune." I think that we can do that, I hope, and come to an agreement.

Mr. BARTON. I stand ready to work with whatever group this committee or others may put together to make this happen.

The CHAIRMAN. Thank you very much. We appreciate that.

Mr. GOSS.

Mr. GOSS. I also want to very much compliment the gentleman from Texas for his willingness to find middle ground. I know there are some things in your kit bag that you care very much about that you have been willing to leave out there so that we can get something good, but maybe not perfect in your eyes. That is the process this year. We have pledged to do that.

Mr. BARTON. Could I ask the Chairman a question? What is your timetable, Mr. Chairman? Do you have a definite timetable on this issue?

The CHAIRMAN. Well, as you well know, definite timetables around here do have a tendency to move. But it is our hope to see the Budget Committee proceed with hearings on this next week. The Budget Committee is going to be holding hearings next week. And beyond that, about 2 weeks following their hearings, we look forward to marking this up.

Mr. BARTON. Oh, good.

Mr. GOSS. My staff has been told to do this in June. I hope that is possible.

Mr. BARTON. That is good news.

The CHAIRMAN. Mr. Linder. Ms. Pryce.

Ms. PRYCE. Thank you, no.

The CHAIRMAN. Mr. Diaz-Balart. Mr. Hastings.

Mr. HASTINGS. No questions.

Mr. BARTON. I think that I am going to see your smiling face in about 15 minutes.

The CHAIRMAN. Mr. Reynolds.

Mr. REYNOLDS. No questions.

The CHAIRMAN. Thank you very much, Mr. Barton. Thank you for your hard work on this issue.

The CHAIRMAN. We are happy to now have the very distinguished cardinal, the gentleman from Ohio, who has some strong thoughts on this issue, Mr. Regula.

**STATEMENT OF THE HON. RALPH REGULA, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. REGULA. Thank you very much.

The CHAIRMAN. It appears that you have no prepared remarks.

Mr. REGULA. I will send them over this morning. I didn't get back to the office, with school kids visiting from Ohio, but you may even have a copy here. I am here to speak about the two year budget. I worked with it as a legislator in Ohio. I have introduced legislation to establish a two year budget in every session since I have been here.

Let me say as a Chairman of an appropriations subcommittee, I am even more aware of how important it is. I do a lot of oversight. We have had six or seven oversight hearings this year. I think that

if you are going to have good management, you need to find out what is happening and you need to visit, in my case, parks, of course, and so on.

What I would see with a two year budget is you could do a lot better planning and the people in the field could do a lot better planning, because I know park superintendents don't know until maybe the middle of October what they are going to have for the year. Then pretty soon they are trying to put together next year's budget. They therefore cannot contract efficiently because they can only contract for a year at a time. They are in a one year time frame. In Congress we just don't have enough time to do oversight.

What I would think would contribute significantly to improving management would be to have a two year budget, because you can deal with the interim problems with the supplemental, as we are trying to do right now. We finished up about 1:30 this morning and we are back in today. It is contentious and, of course, the supplemental becomes a train that is going to leave station. Our brethren on the other side find it very convenient.

In any event, if you could do a two year time frame the first year of the session would be used to make budget and appropriations decisions. The second year could be used to do oversight to bring people in to talk about what works and what doesn't work. I find oversight hearings extremely valuable and it is good discipline for the agencies because they have to come up and justify their management. What I try to do and I think the other Chairmen do likewise, is to get some management discussions during these hearings. There is no reason when you are operating with a trillion and a half dollar budget you shouldn't think about management. Every company in the world does it or they don't survive.

We have instituted a number of changes as a result of oversight hearings. For example, just a couple weeks ago we had the GAO do an oversight report on the Everglades. We are going to spend as you know, Mr. Goss, probably—I think probably 20 to \$25 billion before we complete that project. So we sent the GAO down, they did oversight over the project, they came in and testified before the subcommittee. We gave the opportunity for others involved to come in too. As a result, we will make hopefully better decisions in the allocation of the resources.

So I see a lot of pluses to a two year budget. I believe President Bush supported it. There is just a certain amount of lethargy that keeps it from happening. Of course, frankly, some Members probably like the fact that an annual budget gives you more control because obviously you have got a bite of the apple every year. When you are on the Appropriations Committee the annual budget has some leverage involved; but I just think in terms of managing and being cost effective as a government on behalf of the taxpayers, a two year budget makes sense.

We are making some changes on the way parks get their money for buildings and the way that they manage their construction budget. It is not that we will necessarily save a lot but we will be able to do more things that members would like to have done because we can spread the money further and get what I call more bang for the buck. So that is why I feel strongly that a two year budget would be a good way to go.

And one last thing, in 1987 we had in effect a two year budget agreement. It wasn't exactly a two year budget, but it was a projection of where we would be. In 1988, was about the only year that we got all thirteen appropriations bills out on time because we had a road map in place. We could think in terms of the two year cycle, and it worked. I would guess that we could well end up with another omnibus this year. That is not a good way to manage the federal budget and federal programs.

[The prepared statement of Mr. Regula follows:]

**Statement of Congressman Ralph Regula (R-OH)**

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Mr. Chairman, I appreciate the opportunity to testify before the Rules Committee regarding a budget reform proposal that I have supported for many years. I have recently reintroduced a bill, H.R. 232, the Biennial Budget Act of 1999, which would establish a two-year federal budget and appropriations cycle. This reform of our annual budget and appropriations process is intended to reduce the repetitive annual budget votes and improve the entire budget process by allowing more time for long-term planning and for careful oversight of government spending.

Specifically, H.R. 232 would require that the first session of every Congress be devoted to decision-making on budget and appropriations issues. The President would begin the process by submitting a two-year budget proposal at the beginning of each Congress. Congress would then have to adopt two-year budget resolution, two-year appropriations bills and a reconciliation bill, if called for by the budget resolution, during the first session of each Congress. The President's budget and the Congressional budget resolution would cover the two years of the biennium and planning levels for two additional years.

The second session of Congress would be devoted to the consideration of multi-year authorization bills and to the oversight, both by authorizers and by appropriators, of the many programs funded in the federal budget.

Why do we need this legislation? The passage of the Congressional Budget and Impoundment Control Act of 1974 made certain that Congress was much more directly involved in the many fiscal decisions that must be made at the federal level of government. The current annual process has resulted in much more time being spent each year on repetitive budget votes. In the 1960s and 1970s, budget-related votes comprised just over 40 percent of all votes. By 1996, budget votes totaled about 70 percent of all votes.

This has resulted in less time being available for in-depth oversight of federal programs and it has also led to delays in completing the funding bills on time. Only twice since the enactment of the 1974 Budget Act has Congress completed the thirteen individual appropriations bills on time. One such occasion was in 1988, the second year of the 1987 two-year Budget Summit Agreement. The thirteen appropriations bills that funded the fiscal year 1989 budget were enacted before the October 1, 1988 deadline. Although it was the second year of the agreement that allowed for on-time passage of the funding bills, I believe that it does make a case that if we have some relief from the annual repetitive decision-making on budget issues, Congress will be in a better position to complete funding legislation on time.

We need more time for effective oversight of the programs we fund. I would like to spend more time to ensure that the agencies funded by the Subcommittee that I chair put in place quality management procedures. Every year we must hurry through hearings with each agency in the Spring which limits the time we can delve into issues and practices that should receive more attention. I would like to join my colleagues on the authorizing committees to work more closely with the various federal agencies to ensure that they are managed well and serve the American people effectively. I believe a two-year budget cycle that frees up the second year of the budget cycle for such in-depth oversight would produce a better-run and more effective federal government.

I urge you to study further the concept of a two-year federal budget because I believe it would reduce the repetitive number of annual budget votes we must now take; it would allow Congress to engage in some longer-term planning; it would improve our systematic oversight of federal agencies and programs; and it would provide the agencies and the states and localities with more stability and predictability in federal spending.

Some of you will argue that the federal government should not move to a two-year budget cycle because States seem to be moving away from two-year budgeting. But I would argue that many States may have moved away from two-year budgeting because of the complexities and uncertainties that our current annual federal budget process has caused them in their own budget processes.

Again, I thank you for the opportunity to discuss with you the common sense reform of moving the federal budget to a two-year cycle.

The CHAIRMAN. Thank you very much, Mr. Regula. The only question that I would pose is how—do you envision the appropriations process on two year cycles?

Mr. REGULA. Yes. You would appropriate for a two year cycle, because that would give the executive branch the ability to manage in a two year cycle. They could contract for services for two years and get a better price, obviously. And then the second year would be used to pass needed supplementals but would also be used more importantly for oversight and for visiting facilities.

The CHAIRMAN. As you know, one of the priorities of this Congress has been policy and programmatic oversight, and trying to focus on that. I happen to concur that your proposal is one way to deal with that.

Mr. Goss?

Mr. GOSS. I do, too. The problem is that no one is running from the debate on it at all. It is just that we don't hear the drumbeat. Some friends on the other side say, push, push, but we are just not hearing it. We are trying to find stuff that we can put in that is good for the process of reform.

This is something that I find, when you start toying with it, is they haven't really given it the kind of thought that we have given it and people have to deal with these problems. I have looked at the pluses and minuses on it and I am convinced that there is time for a debate on it. I think this would be right to have a debate. I don't know how the debate would come out, but sooner or later—

The CHAIRMAN. Would you yield for just one quick question? I wonder how your colleagues on the Appropriations Committee would respond.

Mr. REGULA. I think they would like the idea, because you certainly do a much better management job. I would daresay that private industry wouldn't even think about trying to operate on a one year cycle in terms of budgeting projections for plant improvements, et cetera, et cetera. I would hope your committee will bring in a couple of CEOs or CFOs to say from a management standpoint how they do it and how it works out in the private sector.

Mr. GOSS. I thank you, Mr. Chairman. I know that the business cycle, and how you do it and when you do it and time of year is very important. I agree that there is a lot of technical information that we need.

In my own bill, the intelligence bill, we are required by law, because of the extra level of oversight needed, to do the oversight annually. I frankly don't want to change that. You have got to be on top of that to do the oversight job. But the leverage that is involved with the budget, I think is very important. I agree with you on things that out and about in normal business activity, day in and day out in this country, if we can improve management, this is a tool that ought to be looked at.

Mr. LINDER. I agree with you.

The CHAIRMAN. Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman. I think that you have significance for this committee. I am happy to hear an appropriator come forward and say that this is a good way to go because I have seen some resistance or perceived resistance from that committee.

It is good to have you here to show us that you all are not of that ilk. Thank you very much.

The CHAIRMAN. Mr. Diaz-Balart.

Mr. DIAZ-BALART. It really makes a lot of sense.

The CHAIRMAN. Mr. Hastings.

Mr. HASTINGS. I agree with you, too. I have always felt that that is the way to go, precisely because of the reasons you said and because of the oversight aspect. You just don't have that many steps and pressures, particularly in your area that you deal with, contentious as they are. So if you put something in place and you don't know if they work or not because—well, I just think that you are right on. I appreciate it.

The CHAIRMAN. Mr. Reynolds.

Mr. REYNOLDS. No questions.

The CHAIRMAN. Thank you very much Mr. Regula.

Mr. GOSS. May I give one piece of advice?

The CHAIRMAN. Mr. Goss.

Mr. GOSS. You have heard here a little bit of an outpouring of appreciation for your wisdom. We find that our colleagues on the Budget Committee don't share that.

The CHAIRMAN. Respect for his wisdom?

Mr. GOSS. I would very much appreciate it if you would spend some time with them.

Mr. REGULA. I understand.

The CHAIRMAN. Thank you very much, Mr. Regula.

The CHAIRMAN. Now, we are pleased to welcome the distinguished gentleman from Delaware, Mr. Castle. We are happy to have you here and your remarks will appear in their record in their entirety without objection. You are welcome to provide any kind of summary that you wish.

#### **STATEMENT OF THE HON. MIKE CASTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE**

Mr. CASTLE. Thank you very much, Mr. Chairman. I would like the assumption that everybody here will read my prepared remarks thoroughly and I will refrain from reading them myself. And frankly, in your case and in the case of some of the others here, what I have to say is not necessarily original or new to a lot of people in this Congress. I have been talking about some of these issues almost since the day I arrived here. I am strongly in support of H.R. 853. I am only going to talk about certain portions of it, but I don't know any part of which I am not in support. I think the budgeting appropriation process is without a doubt the engine that drives the Congress of the United States. I think it is the portion procedurally of what we do that is most out of whack with what it should be.

Frankly, it is my hope that you all, as I guess one-half of this with the Budget Committee as esteemed Members of Congress, lesser mortals such as myself, could never envision being on the Rules Committee, but you have the ability to really carry this. I just hope to the Lord that you will run with this. I just think this is really, really important.

I am tired of the naysayers who say that we should not change the budget process. I think somebody needs to take a different look



at it. I think that you all are in a position to do that. So more than anything else, I would have to say that if we are going to have a credible and responsive budget process, I think that is what has to happen.

Just a couple of brief thoughts and I would answer any questions that you might have. One is I heard Mr. Regula testify to some of this, but I believe that the President should be a part of this process. The President is part of the financial process of how we spend money in the United States of America in a big way, and in my judgment should be brought into the process early on in terms of budget resolutions and signing onto it. If he or she does not like that, then he or she can veto it or come to the Hill and lobby or whatever it may be. I just think that is an absolutely essential part of it.

When was the last time that we ever got through the appropriations process without a series of summons at the White House? And all of it springs from the budget resolutions which would pass here. So I am strongly in favor of that. I am also in favor of the two year budget and appropriations cycle. The planning that is needed for the long-range things which are done, in my view, needs longer term than one year, particularly when that one year ends up being less than one year because sometimes of the way that we go about our appropriations. Obviously, you could make adjustments in a timely fashion in off years if need be. But the whole concept of running two years to me makes all of the sense in the world.

The part of the bill that I am most focused on from a personal point of view, because I have my own legislation and they adopted most of my legislation, is budgeting for emergencies. I don't know how many of you stayed up last night to see the conference discuss the emergency appropriations which is going on right now. Apparently it ended at 1 o'clock in some sort of a stalemate. I frankly don't watch a lot of C-SPAN unless I am trying to figure out how I am going to vote on something. I don't stay awake at nights watching it. If I did, I would probably fall asleep. But there were people who were galvanized by this. Some probably stayed up until 1 o'clock, like watching a championship playoff game or something, who couldn't take their eyes off of it. And they were just amazed at what was going on here in terms of the people trying to pen in every program in the world.

We don't have an emergency process in this Congress. We simply don't have it. What about our States? The States all basically have this. Just about all have some sort of emergency process. They appropriate the money and they have a process by which something is declared an emergency and then the money is spent. Only in the Congress of the United States have we reached the point where we ignore this altogether, and we have found, because we have trouble with our caps and budget resolutions in terms of what we appropriated to us, as we saw recently in the House-passed bill with the extra military expenditures. Only in the Congress of the United States do we have the system to avoid it, the cap problems, that avoid addressing the cap problems and is called add it to the emergency spending and making everything an emergency. Any need

which is out there now becomes an emergency so that we could do this.

I just think that it is an abhorrent process, one which is an extraordinarily difficult one, made more difficult, I might add, by this senate which believes in its filibuster rules they have to get 60 votes for everything. I say let them filibuster over there. Let them read from the Bible and the Constitution for a while. Let's stand up to some of the actions that are going on in the Senate of the United States.

That is my view of it all. The bottom line is it is a process that I think is tried and true and failed completely. It is up to us in the House to make the changes which are necessary. I am not going to go through a lot of details of it. I think that some of you have been through this with me before. You know what we have tried to do. Essentially it is each year to appropriate a sum of money that would be for emergencies. As I said, they do it in the States now. That means that some first year you have got to start this. You have got to find that five or \$6 billion dollars. You have got to squeeze it into an already tight budget.

Our revenues are quite a bit higher than they were when we set the budget caps. I am not one to necessarily be persuaded that we have to hold the budget caps forever. Everyone winks about that, that we are not going to have budget caps in the end. I say we face this issue early on. What we need to do is this. By the way, I am far from a big spender. I just truly believe that we should spend adequately, and we are not doing it. You have to have a rainy day fund. We can set the amount based on looking back over five years or so. And it does come out to about five or \$6 billion. It doesn't take a Kosovo in your consideration. You obviously have to have breakers on this in a sense so that if something significant happens you can go beyond it.

But you would do this, you would have a definition as to what an emergency really is. You would have a panel that could review true emergencies that would be able to supersede some appropriator's interpretation of what an emergency may be, which would be a process to go by. You wouldn't have to get into this incredible off-set fight that we have now with respect to what we as a Congress, and particularly Republicans, are trying to do.

I happen to believe in offsets now. But if you have it as part of the appropriations process, you would get away from that. I think that is something that we should do as well. It also means, by the way, that communities which are devastated by the tornados and hurricanes and earthquakes would get their money in a faster sense. It also means there would be a review process for that. I can tell you right now that those communities, the smallest ones to the biggest State out there, are submitting claims that are probably close to—I was going to say "fraudulent," but strike that word and say "excessive," because they figure they get a percentage of this.

If we had some sort of system for review of emergency requests, that would be extraordinarily helpful, too, something that is missing as far as the Federal Government is concerned.

All of this has to be within existing budget limits. It would be part of the budget process. Whether or not it ended in that in terms of determination of who metes it out with appropriations or

budget is something that could be resolved by any of you, I suppose, but I just think that we absolutely need to address is. Frankly, this is about the third or fourth year in which we are getting into a situation in which we going into emergency spending as a way of trying to do things that we need to do. We have a series of appropriations bills, I would say two or three maybe four or five emergency appropriation bills that aren't going to get done. We are going to sit down with the White House sometime in October or November and have this big combat and get a bill that none of us can handle, which John and the Democrats as well as the Republicans are going to say is excessive. It is just not a good way to go about our business in my judgment.

I come to you, pleading with you, because this is something that virtually everyone agrees on. It should be done. But there is always some handful of people out there that have more power than some of us do that manage to stop this. I would hope that you all with the strength that you have would really run with this and hopefully do something about it.

The CHAIRMAN. Thank you very much, Mr. Castle.

[The prepared statement of Mr. Castle follows:]

**Statement of Congressman Michael N. Castle (R-DE)**

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MR. CHAIRMAN, MEMBERS OF THE RULES COMMITTEE, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS POTENTIAL IMPROVEMENTS TO THE FEDERAL BUDGET PROCESS. HR 853 IS COMPREHENSIVE LEGISLATION THAT I AM STRONGLY SUPPORTIVE, NOT ONLY FOR ITS TITLE ON BUDGETING FOR EMERGENCIES -- SOMETHING I HAVE BEEN VERY INVOLVED IN SINCE I CAME TO CONGRESS (AND ACTUALLY WHEN I WAS GOVERNOR AS WELL), BUT FOR ITS OTHER PROVISIONS AS WELL. I FIRMLY BELIEVE THAT OUR ABILITY TO MAINTAIN A BUDGET SURPLUS, PROVIDE TAX RELIEF, RESTORE THE SOCIAL SECURITY TRUST FUND AND REDUCE THE OVERALL SIZE AND SCOPE OF THE FEDERAL GOVERNMENT IS DIRECTLY LINKED TO A CREDIBLE AND RESPONSIBLE BUDGET AND APPROPRIATIONS PROCESS.

I APPLAUD THE RULES COMMITTEE AND ITS MEMBERS, CHAIRMAN KASICH, THE BUDGET COMMITTEE, REPRESENTATIVES NUSSLE AND CARDIN AND ALL THEIR STAFFS FOR UNDERTAKING THIS SERIOUS ASSESSMENT OF OUR BUDGET PROCESS, AND FOR THEIR PERSEVERANCE IN BRINGING FORTH THIS LEGISLATION.

THE CONGRESS NEEDS TO TAKE A VARIETY OF STEPS TO IMPROVE HOW OUR GOVERNMENT SPENDS THE PEOPLE'S MONEY. A STRENGTHENED BUDGET PROCESS WILL NOT ELIMINATE WASTEFUL SPENDING BY ITSELF, BUT I BELIEVE IT CAN MAKE A SIGNIFICANT CONTRIBUTION TO THIS EFFORT, AND HELP RESTORE OUR CONSTITUENTS' FAITH IN HOW WE MANAGE THEIR TAX DOLLARS.

IN THIS REGARD, HR 853 DIRECTLY ADDRESSES BUDGETING WITH THE FORCE OF LAW, SOMETHING I BELIEVE THIS CONGRESS SHOULD SERIOUSLY CONSIDER. THROUGH AMENDING THE BUDGET ACT TO REQUIRE THE PRESIDENT TO SIGN OUR ANNUAL BUDGET RESOLUTIONS AND AGREE TO OVERALL SPENDING LIMITS EARLY IN THE BUDGET PROCESS, THE CONGRESS CAN INVOLVE THE PRESIDENT, GIVE OUR BUDGET THE FORCE OF LAW, AND PROVIDE US WITH A MORE REALISTIC LEGISLATIVE SCENARIO, ALL OF WHICH CAN TRULY HELP AVOID LAST MINUTE BUDGET STANDOFFS, VETOED BILLS, AND THE NEED FOR CONTINUING RESOLUTIONS. AS WE ALL KNOW FROM PAST EXPERIENCE, ALL THIS IS HIGHLY DESIRABLE.

IN MY VIEW, WE SHOULD ALSO STRONGLY CONSIDER PASSING LEGISLATION THAT IS CONTAINED IN HR 853 WHICH WOULD CREATE A TWO-YEAR BUDGET AND APPROPRIATIONS CYCLE. MOVING TO SUCH A SYSTEM CAN HELP AVOID ELECTION-YEAR SPENDING BATTLES. A TWO-YEAR CYCLE WOULD ENHANCE CONGRESS' PROPER BUT OFTEN-NEGLECTED OVERSIGHT ROLE IN HOW MONEY IS ACTUALLY SPENT, AS WELL AS ALLOW MORE TIME TO FOCUS ON OTHER IMPORTANT LEGISLATION. THIS IDEA WOULD ALSO ENABLE THE FEDERAL AGENCIES TO PLAN BETTER AND SPEND MORE TIME ACTUALLY SERVING PEOPLE, RATHER THAN WORRYING ABOUT WHAT THEIR FUNDING LEVEL WILL BE FOR THE NEXT YEAR. THOUGH THERE ARE PITFALLS TO SUCH AN APPROACH, I BELIEVE IT DESERVES SERIOUS CONSIDERATION AND GENUINE DEBATE.

THERE ARE OTHER IMPORTANT PROVISIONS IN HR 853 THAT ARE DESERVED OF ACTION BY US. BUT LET ME MOVE TO AN IMPORTANT TITLE OF THE LEGISLATION, AND THAT IS THE TITLE ON BUDGETING FOR EMERGENCIES.

MR. CHAIRMAN, I WAS GOING TO RECOUNT HOW I HAVE BEEN WORKING ON BUDGETING FOR EMERGENCIES FOR A LONG TIME, AND THAT AS FAR BACK AS AUGUST, 1994, I APPEARED BEFORE THE GOVERNMENT OPERATIONS COMMITTEE TO ARGUE THAT WE MUST CHANGE OUR BUDGET RULES TO REQUIRE CONGRESS TO INCLUDE EMERGENCY SPENDING IN THE ANNUAL BUDGET PROCESS, PARTICULARLY OUR ANNUAL SPENDING LIMITS. AS YOU MAY RECALL, IN 1994 THE HOUSE PASSED LEGISLATION TO PREVENT NON-EMERGENCY SPENDING FROM BEING ADDED TO EMERGENCY SPENDING BILLS. WHILE THAT PROPOSAL WAS A START, IT DID NOT FULLY ADDRESS THE PROBLEM OF HOW CONGRESS APPROPRIATES MONEY FOR DISASTERS AND OTHER EMERGENCIES.

IN FACT, WHILE WE SIT HERE TODAY, EFFORTS CONTINUE IN BOTH CHAMBERS TO DECLARE BILLIONS OF DOLLARS AS "EMERGENCY SPENDING" WHEN THOSE FUNDS CAN FIT NO DEFINITION OF WHAT A TRUE EMERGENCY REALLY IS. A STRONG ASPECT OF THIS LEGISLATION IS THAT, FOR THE FIRST TIME, IT WOULD REQUIRE BY LAW THAT THE CONGRESS FORWARD EMERGENCY SPENDING ONLY WHEN IT FITS A STRICT DEFINITION OF WHAT AN "EMERGENCY" IS. THIS IS A VERY IMPORTANT ASPECT -- THE "TEETH" OF THIS TITLE.

MY SOLUTION, A SOLUTION CONTAINED IN HR 853, WOULD REQUIRE CONGRESS TO BUDGET HONESTLY FOR EMERGENCIES BY SETTING ASIDE FUNDS IN A BUDGET RESERVE ACCOUNT, OR RAINY DAY FUND.

AS YOU KNOW, UNDER CURRENT BUDGET LAW, EMERGENCY SPENDING IS NOT SUBJECT TO THE ANNUAL SPENDING LIMITS. THIS IS A CRITICAL SHORTCOMING IN OUR SYSTEM. IT PERMITS US TO AVOID PLANNING FOR EARTHQUAKES, HURRICANES, FLOODS AND OTHER DISASTERS. WE KNOW THAT THEY WILL ALMOST CERTAINLY OCCUR, YET WE FAIL TO PLAN FOR THEM.

WHEN THEY HAVE HAPPENED. CONGRESS HAS EITHER DECLARED AN EMERGENCY AND APPROPRIATED BILLIONS OF DOLLARS TO RESPOND TO THE DISASTER ADDING TO THE DEFICIT, OR ENGAGED IN A NECESSARY, BUT DIVISIVE AND DEBILITATING DEBATE OVER CUTS IN OTHER PROGRAMS TO OFFSET THE NEEDED EMERGENCY SPENDING.

FROM A BUDGETING STANDPOINT, THE WORST PART OF THE CURRENT SYSTEM IS THAT THE CONGRESS IS NOT **REQUIRED** TO OFFSET EMERGENCY SPENDING BY OTHER SPENDING REDUCTIONS. WHILE THIS REPUBLICAN-LED CONGRESS HAS AT LEAST ATTEMPTED TO IDENTIFY **TRUE** OFFSETS, A FUTURE CONGRESS COULD STRICTLY PRACTICE ADDING EMERGENCY APPROPRIATIONS TO THE DEBT ON A REGULAR BASIS -- SOMETHING WE ARE DANGEROUSLY CLOSE TO DOING NOW.

AS WE HAVE SEEN ALL TOO RECENTLY, WHEN CONGRESS DOES CONSIDER OFFSETTING THE COST OF EMERGENCY SPENDING, THIS DEBATE OFTEN BECOMES OVERLY DIVISIVE, CAN ACTUALLY SLOW PROMPT ACTION TO HELP THE VICTIMS OF THE NATURAL DISASTER, AND REDUCES THE PUBLIC'S VIEWS OF HOW EFFECTIVE THE CONGRESS CAN BE, SOMETHING THIS INSTITUTION CAN ILL-AFFORD. THIS IS AN UNFAIR, UNNECESSARY, BUT ANTICIPATED AND AVOIDABLE CONFLICT.

ANOTHER PROBLEM WE HAVE SEEN IN THIS CONGRESS AND OTHERS IS THAT BECAUSE EMERGENCY APPROPRIATIONS ARE NOT SUBJECT TO ANNUAL SPENDING LIMITS, IT HAS ENCOURAGED THE ADDITION OF FUNDS FOR NON-EMERGENCY PROJECTS WHICH ARE CLEARLY NOT PART OF THE EMERGENCY AT HAND. AND USING EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO AVOID BUDGET CAPS SET BY LAW MAKE IT MORE DIFFICULT TO DEFINE TRUE EMERGENCIES, WEAKENING OUR ABILITY TO CONTROL BOTH THE AMOUNT OF SPENDING AND WHAT IT IS SPENT ON.

MR. CHAIRMAN, WE CANNOT PREDICT THE EXACT TIME AND NATURE OF A DISASTER, BUT IT IS QUITE PROBABLE THAT THEY WILL OCCUR. CONGRESS SHOULD MAKE AN ATTEMPT TO ANTICIPATE, PLAN AND PAY FOR THESE EMERGENCIES -- **WITHIN EXISTING BUDGET LIMITS.**

MY PROPOSAL, H.R. HR 537, WOULD CREATE A BUDGET RESERVE ACCOUNT INTO WHICH CONGRESS WOULD ANNUALLY APPROPRIATE FUNDS FOR EMERGENCIES. THE FUNDS IN THE RESERVE ACCOUNT WOULD BE INCLUDED IN THE ANNUAL DISCRETIONARY SPENDING CAPS SET BY THE BUDGET RESOLUTION AND ADMINISTERED BY THE APPROPRIATIONS COMMITTEE. THE FUNDS IN THE RESERVE ACCOUNT COULD HAVE THE EFFECT OF LOWERING THE AMOUNT OF FUNDS AVAILABLE FOR OTHER PROGRAMS, BUT THE BUDGET COMMITTEE HAS CHANGED THIS PROVISION SOMEWHAT TO FULLY ENGAGE THE APPROPRIATIONS COMMITTEE AND THE BUDGET COMMITTEE IN A RESPONSIBLE, FAIR WAY. THIS IS A KEY POINT AND IS THE ONLY RESPONSIBLE APPROACH TO SPENDING.

THE TEETH IN THIS PROPOSAL IS THAT IT WOULD ELIMINATE

CONGRESS'S AUTHORITY TO SPEND MONEY OUTSIDE THE BUDGET LIMITS, AND IN FACT, IN THE CASE OF HR 853, ELIMINATE THE EMERGENCY SPENDING DESIGNATION ALTOGETHER IN THE BUDGET ACT. THE PRACTICAL EFFECT OF THIS WOULD TRULY BRING BETTER BUDGETING TO THE CONGRESS.

WHAT IS AN ADEQUATE AMOUNT IN ANTICIPATING OUR EMERGENCY SPENDING NEEDS? I THINK CONGRESS AND THE PRESIDENT SHOULD TAKE A CAREFUL LOOK AT THE AMOUNT OF EMERGENCY FUNDS NEEDED IN PREVIOUS YEARS AND BASE THE RESERVE ACCOUNT ON THIS EXPERIENCE. FOR EXAMPLE, THE AVERAGE COST OF EMERGENCY APPROPRIATIONS BILLS FROM 1991 TO 1997 WAS ABOUT \$5.2 BILLION. IF CONGRESS SET ASIDE ROUGHLY THAT AMOUNT IT WOULD GIVE OUR GOVERNMENT ENOUGH FUNDS TO HANDLE MOST DISASTERS AND PROVIDE PROTECTION AGAINST UNNECESSARY DEFICIT SPENDING, OR SPENDING THAT COULD DEplete THE SOCIAL SECURITY TRUST FUND.

IN MY LEGISLATION, IF WE ARE FORTUNATE ENOUGH TO ESCAPE HURRICANES OR FLOODS IN A PARTICULAR YEAR AND THE RESERVE FUNDS ARE NOT USED, THEY WOULD REVERT TO THE TREASURY AND THEREFORE LOWER THE DEFICIT.

MEMBERS OF THE RULES COMMITTEE, I HAVE BASED THIS LEGISLATION ON MY OWN PRACTICAL EXPERIENCE AS GOVERNOR OF DELAWARE. MOST STATES MUST OPERATE WITH A BALANCED BUDGET. THIS IS TRUE IN DELAWARE. WHEN THE STATE HAS A SURPLUS AT THE END OF ANY FISCAL YEAR, THESE FUNDS ARE PLACED IN A BUDGET RESERVE ACCOUNT WHICH IS NOT TO EXCEED 5% OF THE ESTIMATED STATE REVENUES. WHEN THERE IS AN EMERGENCY THE GENERAL ASSEMBLY CAN ALLOCATE THE RESERVE FUNDS BY A THREE-FIFTHS VOTE. I BELIEVE THE FEDERAL GOVERNMENT HAS THE SAME OBLIGATION TO ADOPT THIS CONCEPT.

IN DELAWARE, THE RESERVE FUNDS ARE ROLLED-OVER FROM YEAR TO YEAR. I DID NOT ADOPT THAT FEATURE BECAUSE IN THE FEDERAL BUDGET AN ANNUAL APPROPRIATION IS STANDARD PRACTICE, AND FRANKLY, BECAUSE ON THE FEDERAL LEVEL ACCOUNTS WITH MONEY IN THEM FROM YEAR TO YEAR TEND TO BE SPENT.

I BELIEVE MY PROPOSAL IS A SOUND ONE, BUT I WILL NOT INSIST THAT IT IS THE ONLY APPROACH WHICH SHOULD BE CONSIDERED. I AM QUITE OPEN TO MODIFYING MY CONCEPT WITH YOUR HELP TO IMPROVE IT AND MAKE IT MORE ACHIEVABLE. THE BUDGET COMMITTEE HAS DONE JUST THAT AND I COMMEND IT, ITS MEMBERS AND ITS STAFF.

THE CRITICAL CHANGE WHICH MUST BE MADE IS TO BRING EMERGENCY SPENDING WITHIN THE BUDGET LIMITS. IT IS NOT "FREE" MONEY AND SHOULD BE ACCOUNTED FOR JUST LIKE ANY OTHER EXPENDITURE. I URGE THIS COMMITTEE TO REPORT FAVORABLY THIS IMPORTANT OMNIBUS BUDGET PROCESS REFORM LEGISLATION THAT HAS TRULY EVOLVED INTO SOMETHING THAT CONTAINS ELEMENTS WE ALL CAN SUPPORT. THANK YOU; I'D BE HAPPY TO ENTERTAIN ANY QUESTIONS OR COMMENTS YOU MAY HAVE.

The CHAIRMAN. We appreciate your being here and for the time and energy you have put into this. I have had discussions with you about this before. I know that we will continue. We are hoping that we will be able to move as expeditiously as possible and have it in this legislation. Your thoughts will certainly be taken into consideration.

Mr. Goss.

Mr. GOSS. I would like to bottle that and spread it around. It is very encouraging to hear that kind of enthusiasm for this. I really mean that. This is not a task that has ignited a lot of what I would call colleague interest, mostly people who are concerned about it, and people say somebody ought to do something. We seldom get a member ready to jump in the fracas and I very much appreciate that.

Mr. CASTLE. I am equally as enthusiastic with the intelligence authorization.

Mr. GOSS. That fine.

The CHAIRMAN. Mr. Linder.

Mr. LINDER. Did you have a two year budget in Delaware?

Mr. CASTLE. No, we did not. That is a good question, actually. Most States do not. I never pushed for it, in fairness, but we had a bond process. So all of your long-term spending was tied up in that. You didn't have aircraft carriers tied out over seven years, or whatever it may be. You had a process by which any long-term spending you had was put into a bond bill and understood from that point of view. Plus we would report on the—in a longer-term sense, too, we had reports on it. But we were handicapped by the Federal Government. We weren't sure what they were going to do each year. We would have to go back each year and review it. It is a smaller problem, a more manageable process so we are able to do it.

I think there is a difference between the States and the Federal Government. However, I think the States should be looking more at this, too, in terms of longer-term planning. But their processes, I think, lend themselves to a little bit of longer-term planning now. It is a little bit of a simpler process. We did not have it in Delaware. We are not pushing for it in Delaware; that is, the present Governor is not pushing for it.

Mr. LINDER. Have you looked at the question of a capital budget?

Mr. CASTLE. I have looked at that question. I am a capital budget fan, obviously, in the way that you don't go into the market necessarily quite as clearly in terms of debt. But I think it helps tremendously with the planning. Most people know where things are to separate all of that out and do it separately. I am not sure that is in this bill or not, but I do personally support that concept. I have not really reviewed it in terms of how you would actually do it. I get personally frustrated when you have long-term projects going on in the Federal budget. I don't think it gives you a very good picture. It takes a genius to figure out what the heck is in all of the appropriation bills, as we all know. I think some sort of a separate capital budget, long-term budget process, at least in terms of designation, would be in order.

The CHAIRMAN. Thank you. Mr. Hastings.



Mr. HASTINGS. Did you have a capital budget in Delaware?

Mr. CASTLE. Yes, we did.

Mr. HASTINGS. Was that constitutional limits or bonded indebtedness or constitutional indebtedness?

Mr. CASTLE. Actually, we did not. We had a very high bonded indebtedness for various reasons which never made me very happy. But we did have constitutional limits in terms of expenditures. Delaware had an Economic Financial Advisory Council. Boy, could we use that down here. We have got to get something like it. Basically, it was made up of both political parties, public and private experts, and they projected what the revenue was going to be each year. You could not exceed that revenue.

Mr. HASTINGS. By the Constitution?

Mr. CASTLE. Actually put in the Constitution. We had a rainy day fund, which I think was equal to five percent of the budget. Then we had another two percent set-aside which was a little softer than the rainy day fund. We had a huge budgetary problem back in the seventies. That is when all of this happened. You could spend the two percent a little more easily, but I don't think that we spent the rainy day fund yet. We carried it over from year to year.

For various reasons, my recommendation here is to use it to retire debt and then reappropriate it the next year. We carried it over. We had two stops before you would get outside the budget. We didn't even get close to that amount.

We have now, I think, the highest financial rating of any State; if not the highest, the next category down. I think that we just went to the highest with a handful of other States because of a lot of the budget processes which we adopted. We also, by the way, reduced our per capita debt tremendously in spite of the fact—

Mr. HASTINGS. The reason that I ask that, Washington State has a constitutional limit. I don't know what the figure is. Statutory is lower, but you need some sort of mechanism like that on capital funding. We don't have that here. By the way, I was one of those that stayed up and watched Congress until I saw my issue addressed, and then I went to bed.

Mr. CASTLE. I don't want to ask what the issue was.

The CHAIRMAN. Thank you very much. Mrs. Myrick.

Mrs. MYRICK. I too thank you. I am real encouraged by what you had to say. I agree with you completely. I think that some of the points you made are especially important, having done a budget for a city, not a State.

Mr. CASTLE. Maybe as big as Delaware.

Mrs. MYRICK. It is anymore. But we had a separate capital budget as well. It is very simple to do that. You know exactly what you are spending and when you are spending it. It just makes so much sense as well as the limits. We have a AAA bond rating still, and had it for many, many years. That contributes to it.

The CHAIRMAN. Thank you very much, Mr. Castle. We appreciate you being here and again for your very thoughtful remarks. We look forward to continuing to work with you on that. Thank you.

The CHAIRMAN. We are now very happy to welcome as our final witness today, the distinguished Ranking Minority Member, the gentleman from South Carolina, Mr. Spratt.

**STATEMENT OF THE HON. JOHN SPRATT, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF SOUTH CAROLINA**

Mr. SPRATT. Thank you, Mr. Chairman. I am happy to have this opportunity. I am sorry I don't have the required number of copies of my statement. I got a copy of it from my staff last night. I took it home and worked on it until late last night and managed to save it in such a way that I reinstated the original document and wasted all of my effort.

The CHAIRMAN. Welcome to the 21st century.

Mr. SPRATT. That is what you call leading with your left.

Mr. Chairman, I am grateful for the opportunity to testify about H.R. 853 because the bill is comprehensive, wide-ranging and covers all kinds of items. I think it is critically important that we study it carefully and I would like to call attention to several provisions of it. I don't want to slight or diminish the work that Mr. Nussle and Mr. Cardin and others on the task force put into it, but I take exceptions to the major provisions of the bill. There are parts of it that I think are positive, but on the whole I am not convinced that it moves the ball forward. I am a big believer that if it ain't broke, don't fix it.

We last made major changes in the budget process in the Budget Enforcement Act of 1990. Since 1992 this process has helped us from a deficit of nearly \$300 billion to a surplus this year of more than \$100 billion.

I am not here to tell you that we can't make improvements or shouldn't make improvements in the budget process, but a budget process that helps us improve the bottom line by \$400 billion in seven years ought to enjoy some presumption that it is working in the right way.

If there is a Congressional majority that can agree upon an overall plan, the process that we have got allows that majority to make a budget plan and implement it. We did that in 1997. There is a will to do it. Last year we didn't do it because there was not a will, not a common majority to get it done. If we are in earnest and do have some kind of consensus, what we have got in the budget process that is on the books now are quite a few enforcement tools, so that the broader outlines of the plan can be laid down, not just for 1 year but many.

We are typically now budgeting for at least five years and this year we ran our projections of the budget in both houses for ten years.

Let me mention four main concerns that I have with the bill before you. The first is with the provisions of this bill that we can statutorily—the Pay-As-You-Go requirement. The second is with the automatic continuing resolution, the automatic CR. The third is with the movement that this bill would make towards a joint resolution, a law rather than a concurrent resolution. The final is with the way that this bill will take the budget resolution and diminish it substantially, strip it down to just a few bare bones essentials, aggregate spending, aggregate revenues, and the resultant deficit of the surplus: the 20 spending functions that are now typically the House's, Congress's opening expression of our priorities. Our only real programmatic statement of a budget would be put in the committee report, diminish in staff. So would the reconciliation instruc-

tions be taken down a notch by putting them in the committee report rather than the text of the bill itself.

Let me first mention weakening the so called Pay-As-You-Go. I think you would agree this is one of the disciplines that has helped us get from huge deficits to substantial surpluses. This bill would repeal the requirement that entitlement increases or tax cuts be fully offset. It will allow projected on-budget surpluses to be used as offset.

Now, the problem is the same for entitlement increases or tax cuts, but let's take tax cuts as an example. Suppose a tax cut is enacted that uses up all of the projected on-budget surpluses. You can understand easily these projections are over-optimistic. Congress will be faced down the road with several choices: a large tax increase, a large entitlement cut, a large discretionary spending cut, sequester, none of them pleasant choices.

Basically, I don't think that it is wise in any event to invite the wiping out of our on-budget surpluses or even a large portion of it until we have actually squared up and dealt with Social Security and Medicare for the long term. I don't think that it is safe to run our projections far into the future, five, ten years. That has been notoriously unreliable. Keep in mind that the CBO's projection of the surplus of twelve months' time has increased by \$750 billion over a period of ten years. Anything that goes up by \$750 billion in ten years can come down by \$750 billion because it is all in the commerce construct. It is on paper. It is not a reality yet.

I have a problem, just willy-nilly across the board saying, okay, we don't need this rule that has helped discipline us since 1990. We can dispense with it now and allow on-budget surpluses to fully offset even entitlement increases or tax cuts.

This budget bill would also turn all existing discretionary appropriations into capped entitlements. That may come as a neurotic surprise to you, but by enacting an automatic continuing resolution, that is the end result. That is the effect. Congress, if we have this automatic CR will no longer need to pass or even consider an appropriation bill. Right now, failing to appropriate is mostly unthinkable. It happens sometimes, but with an automatic CR, failing to appropriate could become routine.

The risks are substantial to this institution, to both houses. I beg you to weigh these risks. Let me just suggest a couple of the unintended consequences that could ensue. We use "must pass" bills like appropriations, a way to define priorities each year, to get the President's attention, to make the agencies of the government more responsive to us. But it is poor tactics for us, I think as an institution, to give up these vehicles. This is the way that we assert ourselves.

It would be unwise also, I think, to allow 41 Senators to kill regular appropriation bills by way of a filibuster. That is what an automatic CR would do. By the same token, it would allow the President to kill a regularly approved appropriation bill, if he preferred the status quo, by vetoing it. Then a small minority of the Congress could sustain the status quo in reference to any appropriation bill. These powers wouldn't enhance the ability of the majority to run this institution.

In addition, this bill provides for something that I understand the purpose of, but I am not convinced is achieved by what it proposes; and that is, it calls for a budget resolution which is now a concurrent resolution to be made a joint resolution, which means the President would have to sign. I took part in the negotiations in 1997 between the President and the Congress. I think it was a constructive experience. I think that it is something that we ought to emulate. I think the President ought to get engaged in the process earlier rather than later. We don't need to have this all crammed into the end of the year to be resolved in some patchwork process as it was last year.

I am troubled by this provision to a joint resolution for a couple of reasons. The first is I think if we require the President to engage, we will just impede the budget process. We are required by statute and by joint resolution in those years where the President or the Congress, together or separately, really don't want anything resolved early. They aren't ready to make the compromises as we were in 1997 to reach a common agreement. If you have a strong-willed President who has decided that he is going to change the direction of the government, he can throw a monkey wrench into the whole budget process by simply extending the negotiations, holding out the prospect of an agreement, and then vetoing the resolution obstinately when it gets to him.

By the same token, Congress can spin its wheels inordinately, trying to get a resolution like that. What happens when the resolution fails? This bill says, well, we don't have a fast track procedure so that if the President vetoed the resolution, he could bring the same resolution as the current resolution up on the House floor. In all probability, if you go that far down the road towards giving the President a resolution which you hope is a product of your negotiations he might sign, you would probably make concessions in it that you would want to withdraw before you put it into the form of a concurrent resolution and offered it as your resolution. You would want to start the negotiation over.

What does that mean? We are into June, July. We are cramming the process into the latter months of the fiscal year once again. I don't think that helps us at all. Ironically, the bill, after having proposed it, we enhance the budget resolution by making it a law, a joint resolution which the President signs, turns around and diminishes the contents of the bill and the statute of the bill by stripping out of the bill the 20 function levels which, as I said, are the one effort that we make to give some sort of programmatic statement of our priorities across the board of Federal spending.

It also takes the reconciliation instructions and, with the 20 functional levels, puts them into the committee report, taking them down a notch in legal significance. The remaining resolution is a bare bones resolution. Now, we have engaged the President, invited him to negotiate, put off the budget process until we can reach some agreement, but what is the end result of the agreement? Aggregate spending, aggregate revenues, resulting deficit or surplus and some committee report language about funding levels and reconciliation. All of this effort comes to a very, very small end result, hardly worth achieving if we are really going to have budget reform.

Let's go back to the one big compromise made in 1974 contained still in 302(b) look at the 302(b) allocation process. If you are going to work towards a process where the President and the Congress are building on the foundation of a common budget where we have made our compromises and come to some accord, then that budget resolution has got to contain the elements of that accord.

When we got to the end of the balanced budget agreement in 1997, we had a problem as to how to state all of the things in binding form, semi-binding form that we just agreed to. How to do lay them out for a five year period of time? This bill doesn't begin to address that. Instead it moves in the opposite direction by reducing the budget resolution to some simple numbers that don't begin to address all of the disputes that we will have with the President over whether the money goes to defense or education, health care, or highway building. So I don't think that this is helping the process at all. I really think it may move the ball backwards instead of forward.

Finally, Mr. Chairman, as I look at it, I am curious as to why the bill skirts some of the bigger issues. You and I were on the Hamilton committee dealing with legislative reorganization. We batted back and forth on biannual budgeting and didn't come to any clear settled conclusion about it. I think the conclusion we came to is that if we had biannual budgeting we would probably have a big appropriations process one year and a mini-process the next year. The supplemental would be a much bigger than the supplemental that we are doing now. You wouldn't get away in the second year of the biannual process of some sort of appropriation.

Social Security. You have got a bill that is moving, I understand would deal with the segregation of the Social Security surpluses. That is something that we seem to be converging on the end at least, if not on the means, but there are other trust funds, as Mr. Shuster reminds us. This is a problem, too, that we should address. We have got a number of trust funds, over 150 in the Federal budget, which are dedicated and earmarked. The moneys that are collected and put into these trust funds are supposed to be spent on the dedicated purposes. But by and large, there are a lot of misses between the cup and the lip. There are a lot of cases where the money just doesn't get there because it is appropriated for other purposes.

If we are going to do true budget reform, I think we probably ought to take a systematic look at that. As I said, anybody who wants to touch the third rail, 302(b), if we really are going to do budget reform, if we are really going to involve the President, that is the kind of allocation process we should be talking about institutionalizing.

The Supreme Court also has invited us to do something when they threw out the item veto. We have had expanded and enhanced procedures on the floor. It is not the equivalent of an item veto but it is better than what we have got under the existing statutes. Certainly things like this out to be considered for inclusion in this bill.

I have got a number of other things in my testimony which I will file for the record, where I think there have been positive contributions made by this bill and this task force. But I urge you, plead with you, to weigh these changes carefully and consider whether or

not we are in many of these cases moving the ball forwards or backwards if we adopt them.

The CHAIRMAN. So what do you really think of the bill?

Mr. SPRATT. I wouldn't vote for it in its present form.

The CHAIRMAN. You have gone through extraordinarily well virtually every item in it. As I listened, I wanted to see if I could find something that you didn't touch on. One of those was the emergency fund.

Mr. SPRATT. I think they have got the basics of something that we should consider, but the mechanics still need to be worked.

The CHAIRMAN. What do you see as the problem with that?

Mr. SPRATT. Well you can have big years of evaporations that would skew the average. I will tell you a problem we have had before with funding FEMA. If you put a lot of money in for FEMA or for any Federal agency, and at the end of the fiscal year if they haven't spent it, there is a great temptation to find places and ways to spend it. I remember we used to fund part of a—authorized part of FEMA's budget on the MILCON Committee in Armed Services. When we gave them the actual money, we found they spent it even though there weren't emergencies. We looked to see what they were spending it on. They were doing all kinds of paper consultancy contracts. All over the Beltway somebody had a contract working with FEMA because they had this money at the end of the fiscal year. So I think we need to get some refinement as to how much we should budget for emergencies, but clearly, we have got a good example now as to why we need more teeth, more discipline in the process of budgeting for extraordinary causes and emergencies.

The CHAIRMAN. Thank you, John.

[The prepared statement of Mr. Spratt follows:]

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Statement of Congressman John M. Spratt, Jr. (D-SC)

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Mr. Chairman, Mr. Moakley, thank you for inviting me to testify before the Committee on Rules on HR 853, the Comprehensive Budget Process Reform Bill of 1999.

Because the bill is comprehensive — because it is so wide-ranging---it is important to understand how the provisions of this bill interact.

I will address only some of the provisions of this bill in my testimony, and leave many others unmentioned. With your permission, I'd like to summarize my major concerns orally, but I ask that you include my entire testimony, which explains the reasons for my concerns, in the record of this hearing.

Mr. Chairman, I have long been a believer that if "it ain't broke, don't fix it." We last made major changes to the budget process in the Budget Enforcement Act of 1990. Since 1992, this process has helped us move from a deficit of nearly \$300 billion to a surplus of more than \$100 billion. A budget process that helps us improve the bottom line by \$400 billion in seven years ought to enjoy the presumption that it's working rather well.

If there is a congressional majority that can agree on an overall plan, this process allows that majority to make a budget plan and implement it. And it gives us sufficient enforcement tools so that the broad outlines of a plan can largely be laid down for a period of years.

Let me summarize my specific concerns with this bill, and then draw attention to three aspects of the bill that I favor.

***Three Major Concerns***

I have three concerns that to me are serious:

- The first is with the provision of this bill that weakens the statutory Pay-As-You-Go requirement.
- The second is with the "automatic continuing resolution," or "automatic CR."
- The third is with the move to "joint" rather than a "concurrent" budget resolution.

These concerns are fundamental and cannot be addressed by tweaking the bill.

**Weakening Pay-As-You-Go.** This bill would repeal the requirement that entitlement increases or tax cuts must be fully offset. It will allow *projected* on-budget surpluses to be used as offsets. I will talk about tax cuts for simplicity, but entitlement increases are equally problematic. Here's the problem — suppose a tax cut is enacted that uses up all of the projected on-budget surpluses. If the projections are over optimistic, Congress will be faced with several choices, all unpleasant: a large tax increase; a large entitlement cut; a large discretionary spending cut; or a large sequester of selected entitlements, principally Medicare, farm price supports and crop insurance, Title XX social service grants to states, child support enforcement payments to states, and mineral leasing and other "shared receipt" payments to states.

It is not wise to wipe out the entire on-budget surplus, or even a large fraction of it, before we deal with Social Security and Medicare solvency. It is not safe to rely on projections far into the future that are notoriously unreliable. It is not fair to put discretionary appropriations on the chopping block because of entitlement increases or tax cuts. It is not appropriate to permit cuts in the outyear discretionary caps to create room for tax cuts or entitlement increases. It is especially not appropriate to assume that discretionary spending will be frozen in place in perpetuity at a level below the existing discretionary caps for this year, which everyone knows are too tight. And it is unfair to Medicare and farm programs to put those entitlements at risk of sequester whenever Congress finds ways to increase discretionary spending, including for legitimate emergencies such as Kosovo funding or natural disasters.

**Automatic Continuing Resolution.** This provision turns all existing discretionary appropriations into permanent "capped entitlements," funded at the prior year's appropriations level. Congress will no longer need to pass or even consider appropriations bills. Right now, failing to appropriate is mostly unthinkable, but with an automatic CR, failing to appropriate may become routine.

The risks here are institutional. Congress uses "must-pass" appropriations as a way to refine its priorities each year, to make agencies more responsive to congressional concerns, to get the President's attention on items he may be ignoring, even to enact policies only tangentially related to funding. It is poor tactics for us to give up this congressional power, to give up our "must-pass" vehicles. It is also unwise to allow 41 senators to kill regular appropriations bills via filibuster or allow the President to kill a regular appropriation through a veto, whenever they prefer the status quo. Such power tramples on the rights of the majority.

**Joint Budget Resolution.** This provision is seductive. I view the negotiation between the President and Congress in 1997, which led to the Balanced Budget Act, as constructive and worth emulating. Nevertheless, I oppose this provision for two strong reasons. The first is that I believe requiring Presidential involvement will only slow down the budget process in the many years in which the President, the Congress, or both, do *not* have a strong desire to reach early agreement on the budget. And when they share such a desire, the experiences of 1993 and 1997 show that we don't need a joint budget resolution to bring us to the negotiating table. In short, this change will not help, and it may do harm.

In addition, a joint budget resolution starts us down a slippery slope. The joint budget resolution is not supposed to enact actual spending or tax law. But once



the President and the leadership find themselves negotiating over a real statute, not a planning document, they will probably succumb to the temptation to legislate, or mandate, the fruits of their negotiation. If this happens, the power over major budgetary details could slip away from the committees and most members and gravitate toward the President and the Leadership.

**Diminishing the Budget Resolution:** This bill seeks to engage the President in the congressional budget process and to make the budget resolution a law, but at the same time, it diminishes the end result of all this extra effort. This bill would take from the budget resolution the 20 functional levels that the resolution now sets and remove the reconciliation directions to the committee report. The remaining resolution would be barebones: a statement of aggregate spending, aggregate revenues, and the resulting surplus or deficit.

If we want to engage the President in the congressional budget process, presumably we want the end result to be a resolution which allows the appropriators to build a budget on this there is some accord. But the end result of this process is less than what we have now, and hardly the foundation for a budget the President and Congress have agreed upon.

The CHAIRMAN. Mr. Goss.

Mr. GOSS. Your testimony is obviously very helpful. It is challenging. I think that we started out with a much bigger idea and we ended up sort of fishing for supper or fishing for a trophy. You are suggesting that we go back to fishing for a trophy. I don't disagree with the overall goal. I just don't think that we are going to be able to do it in one step. This is something that is going to take a process of education, constituent-building among our colleagues of what we are trying to accomplish.

I do think the efforts that were made in the area we have singled out for debate on this are ripe. I think that the abuse on the emergency spending thing is egregious beyond description, as we are seeing that as we sit here. I think the problem of not getting the President on board up front is a serious problem. I agree there are problems in what you do downstream, but I still think it is worth getting in upfront.

I think that the items that we picked, the little fishing that we are going after here, is a good place to begin this. I hope that it is not the final work, but I hope there is enough progress for people to say, yes, with a little effort we can do better, and maybe with a little more we can do better yet. So that is the way that I am looking at this.

Mr. SPRATT. Let me call your attention to one problem that is so bad you have to read it several times or you have to have somebody like Richard Kogan on our staff to read it before you can even discern what the problem is. The way that we read the bill, this bill, assumes that after discretionary spending caps expire in 2002 there is a presumption in forecast subjecting future surpluses and deficits, that the level of discretionary spending will be frozen at its level in 2002.

Now, with that forecasting assumption, you have inflated on budget surpluses too. We all know, I think, that discretionary spending caps are already too tight. We are bursting the seams right now. To assume that these will be set at existing low levels and not increase over time and that on-budget surpluses will be a function of these is to assume, therefore, that on-budget surpluses are going to be a lot larger than they really will be. That invites big tax cuts to be offset by these on-budget surpluses that are not likely to materialize or, for that matter, entitlement increases, contributions to Social Security.

Mr. GOSS. What I guess we are trying to do is to get into a box where we can set up a process that works a little better, get a better result without some of the problems that we are seeing. We are trying some things out.

I agree, if you take Alan Greenspan's pulse and you don't like it, the whole thing falls out; or Robert Rubin resigns, the whole thing goes crazy. What I want to do is try to get a process that gives us a better handle so that when something unexpected does happen, we don't have midnight sessions of the Appropriations Committee and conference reports going on ad nauseam, especially the Rules Committee, which fortunately our wise Chairman—

Mr. LINDER. —has kept to a minimum.

Mr. GOSS. Has kept to an absolute minimum. We look at this, and last year clearly was a benchmark. If we can't do better than that, we probably ought to give up trying. That is the way that I feel about it.

The CHAIRMAN. Thank you. Mr. Linder.

Mr. LINDER. John, you mentioned the enhanced provisions or veto. I would like you to comment on that. The growing body of legal opinion is, I think, that the President already has the authority to item veto under any act of Congress. Each item is going to occur at some point or another in a subcommittee.

Mr. SPRATT. Well, I will quote no less a constitutional authority than Judge Bork, who said if the President has a line item veto, why is it that no President has noticed it in the last 200-odd years, including George Washington who presided over the Constitutional Convention and wrote a letter clearly stating that he did not have such authority. I think the Supreme Court's decision pretty well sealed that. An enhanced and expedited procedure simply says that the President likes something in the bill, he can send it back up here and shine a spotlight on it, make us vote on it within a fixed period of time, and it would be enhanced to the extent that it could apply to targeted tax provisions and things like that, as well as spending items. It is, I think, a constructive substitute if we can't have an item veto.

I voted for the item veto. When I voted for it, I said I don't think this is constitutional, but I am willing to let the Supreme Court say whether or not it is. They said that it isn't. So we have got an alternative. I don't want to amend the Constitution, but I think that we can have statutory enhancing and expedited rescission that would give the President a little more leverage and help him cull out appropriation bills of all kinds of extraneous riders.

The CHAIRMAN. Mrs. Myrick.

Mrs. MYRICK. Thanks for your really thoughtful testimony. The service that you do on the Budget Committee is very fair and I appreciate that. Again, the only other thing that I would say is I tend to wonder and question that the budget process is responsible for the balanced budget because I come from the other side; that I think that we did a balanced budget in spite of the budget process that we currently have.

Mr. SPRATT. Well, the discretionary spending counts, the PAYGO rules have helped. I was here before them and here after. I think they made a difference.

Mrs. MYRICK. I appreciate it.

The CHAIRMAN. Thank you very much, Mr. Spratt. We appreciate you being here. Let me just state for the record that we are expecting testimony from our colleagues, Mr. Obey and Mr. Cox, and a couple of others so we plan to keep the record open for that. I am told that we may even have some testimony submitted from the Office of Management and Budget.

The CHAIRMAN. This concludes the hearing and your entire statement will appear in the record, Mr. Spratt, without objection. With that, the hearing stands adjourned.

[Whereupon, at 10:34 a.m., the committee was adjourned.]