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On H.R. 114, the Biennial Budgeting and Appropriations Act of 2011

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There are some of us on both sides of the biennial budgeting issue who feel that this is exactly what Yogi Berra meant when he said, “Deja vu all over again.” It seems that this committee has been having hearings on this issue since I was a young Hill staffer and Abraham Lincoln was president. Twelve years ago I worked on testimony for my former boss, David Obey, for a hearing on a very similar bill introduced by the gentleman from California who chaired this committee then as he does today.

Obey argued that state governments were turning away from biennial budgets because the long time horizon required in a biennial budget led to faulty decisions about funding levels leading to excessive appropriations in some instances and loss of needed services in others. He pointed out that only four states used annual budgets at the end of World War II but that number had grown to 29 by 2000. Today it has grown to [31](#).

The move to biannual budgeting

The biggest change that has taken place in the time frame for budgeting has been at the federal level. In the decade prior to the 2000 hearing, Congress had been fairly successful in sticking with annual budgets. During that entire decade less than [\\$100 billion](#) was provided in spending outside the regular appropriation bills. More than half of that was funding for the First Gulf War, and that money was repaid to the Treasury through contributions from other countries. But even counting the money that was repaid as supplemental spending, average annual discretionary spending outside of regular appropriation measures was less than \$10 billion per year, or about 2 percent of total discretionary.

Since the 2000 hearings on biennial budgeting, we have shifted dramatically away from annual budgets—but toward *biannual* or one might even argue *bimonthly* budgeting. In the decade following those hearings, this committee reported 29 resolutions waiving budget act points of order on supplemental appropriations totaling more than [\\$1 trillion](#). On average, supplementals have accounted for about \$100 billion a year in spending above the amount permitted by budget resolutions of that period or a little more than 10 percent of discretionary.

That has had a profound effect on our government. We in effect have not had a budget process. We agree to not spend above a certain level until we decide to spend more.

Anticipating resource needs too far into the future

The experience of the past decade also makes it clear that it is difficult to anticipate needs even within the current annual time horizon for budgeting.

In about three weeks pitchers and catchers will start reporting for spring training to get ready for the 2012 Major League Baseball season. At about the same time, federal budget officers across the government will start putting together the president's annual budget request—not for the fiscal year that begins at the end of this baseball season but a full year after that. Since much of the grant and contract money will be obligated at the end of that fiscal year—which will be August and September of 2014—there will be a 33-month time lag between the beginning of the current budget process and the much of the spending that it will facilitate. Biennial budgeting will add 12 months to that timeframe and simply speaking, nobody's crystal ball is that good.

Nobody in this room really knows what employment in this country will be like in the summer of 2015 or what types of security threats we will face, or how much the management of troubled programs will be improved or diminished, or how much revenue the Treasury is likely to collect.

It denies the Congress, and indeed the American people, the opportunity to move resources to emerging priorities, and, equally important, it denies the opportunity to cut funding in a timely way for programs that are underperforming or are no longer relevant to the problems we face as a nation.

Protecting checks and balances

Another point that was made in the 2000 Obey testimony was important then but it is much more important today: the impact that biennial budgeting has on the ability of Congress to play its role as a coequal branch of government.

The founding fathers would be incredulous at what now stands on the banks of the Potomac, the seat of a government of more than 300 million people—nearly 80 times the population represented by the delegates of the Constitutional Convention. The real per-capita GDP of those 300 million is about 40 times that of the 4 million Americans who lived in the colonies at the signing of the Constitution. The government of this country now both facilitates and regulates commercial activity that is more than 3,000 times greater than it was in the beginning.

Those who gathered in Philadelphia had two central concerns. First, that we create an executive vested with the power that would make it capable of governing a country as large as the 13 colonies and, of equal importance, that such a government would not become so powerful that the American people would lose control over it. That is why you people (members of Congress) occupy this building. You were created to be a check on the misuse and abuse of power by the executive. And to the extent that was an issue in 1789, it is an issue that is about 3,000 times bigger today.

The founding fathers gave Congress certain tools that they hoped would counterbalance the authorities granted to the executive or, if you will, would make Congress an even match for the president. The most fundamental of those tools was the power of the purse.

What we are discussing today is a very fundamental change in the way Congress is able to use that power. It deserves thorough and serious deliberation.

If I could leave you with only one point to consider today, it would be that the power of the purse is meaningless if Congress does not understand how the money the executive branch is requesting is likely to be spent, and getting that information is never easy. Today it is harder than ever. We have had nine presidents since I first worked as an intern in the House of Representatives, and not one of them was anxious to share his plans or explain his programs. But based on research I have been doing over the past two years, I am convinced the quality of information Congress gets has deteriorated significantly. Some presidents have gone to extraordinary lengths to keep Congress in the dark, and I would single out the previous administration in that regard. At the same time it is often more difficult to get good information because the agencies themselves don't have the facts necessary for good management or decisions about resource allocation.

Among the dozens of budget professionals in both the legislative and executive branch that my colleague and I spoke with on this matter in recent years, a House Appropriations staffer made the point succinctly:

I am struck by how little useful information the committee now gets in making funding decisions. We are getting more and more pages. There has certainly been no decrease in the number of pages. But the amount of useful information is really very little.

Referring to one agency he had responsibility over he said, "It is essentially a \$10 billion black box."

Among those we interviewed we found a clear consensus that the quality of information now being used in decisions about resource allocation has deteriorated, and in certain agencies even that is not available to Congress.

But the founding fathers expected presidents to overreach. That is why they gave Congress the extraordinary powers that are guaranteed in the Constitution. But only Congress can assert those powers. It is the fault of Congress that so much of the federal budget flows into accounts that are poorly understood and go to programs that lack clear goals and clear records of performance. It is the fault of Congress that far less relevant information is contained in the annual budget justifications submitted by executive agencies today than was true in the past.

If Congress has allowed its authority to demand the truth to slip away under a system of annual budgeting, I ask you to speculate on what would happen if agency heads walked away in October of odd-numbered years with all the money they need for the next 24 months, as is proposed by the legislation before this committee? Let's think about that schedule for a minute. A member is elected to represent his district in November; sworn in as a member of the House in January; gets the president's budget requests in February; has a chance to testify or make recommendations to the appropriations committee in March and April; and in June votes on all 12 appropriation bills. That is it. He or she is done for the Congress. Why would an agency head return a phone call? There will be 20 months before the next budget is submitted, and a member of Congress will have to get re-elected before the White House

or any agency will likely need anything a member of Congress—or a committee of Congress, for that matter—can offer.

While Congress may be free to hold hearings during that period, what is the stick going to be for agencies that don't cooperate? As former Congressional Budget Office Director June O'Neill testified before this committee some years ago, "Congressional oversight that is divorced from the purse strings may be less effective than oversight conducted through annual appropriations hearings linked to agency funding requests." I would go further. The most troublesome agencies in the federal government—those proceeding with policies and approaches that the Congress disagrees with—will be far less likely to cooperate once their biennial budget is in place with any hearing or oversight activity.

Theoretically Congress could extract all of the commitments they need from agencies before the June deadline for voting on appropriation matters has past. But that time period passes in a flash. It takes the better part of a year to put a good oversight investigation in place and by that time the opportunity to insure cooperation and extract the penalty for noncooperation will have expired.

Need for reform

I do not criticize this proposal because I am an old-time appropriator who is happy with the way things are or the way things used to be. There is plenty wrong with the way the system works and serious changes that need to be made. Appropriators need to be critics of the programs they oversee and not cheerleaders for those programs. The congressional schedule should accommodate the opportunity to have thorough hearings on each agency's budget request. The committee should have sufficient staff to fully monitor the justifications of each agency under its jurisdiction, and staff resources should not be squandered on earmark management. Oversight committees should discover the world of oversight—they might like it. The Senate must take steps necessary to ensure that expired authorizations can be brought to the Senate floor. CBO has just reported that of the \$640 billion in nondefense discretionary spending in the 2012 appropriations just enacted, \$241 billion, or 40 percent, is not authorized. My belief is that committees no longer charged with enacting legislation for programs within their jurisdiction are also no longer engaged in any real oversight.

There is a lot of work to do but unfortunately, biennial budgeting will add to our problems, not reduce them.

Biennial budgeting will exacerbate, not relieve, gridlock

I also want to address an argument that seems to be gaining more currency, an argument that I find somewhat remarkable: that two-year budgets will help Congress perform its work in a more expeditious and timely manner. Congress has two serious problems with respect to the timeliness of its actions on budget and appropriation measures. First, close to half the members of both houses of Congress favor dramatically smaller government and about half do not. There are not many people in between and in the Senate a 60 percent majority is required to break the deadlock. That issue will not get easier if Congress is voting on a two-year budget rather than a one-year budget—in fact it is likely to get harder and the timeframe allowed for its resolution is likely to grow.

The second problem involves Senate Rules. Even when there is broad consensus in the Senate, it is often impossible to move appropriation bills. A good example was the FY 2010 Energy and Water Appropriation on which a “hold” was exercised for much of the summer of 2009. After the majority leader finally introduced a cloture motion, waiting the requisite number of days and collecting the requisite number of votes, the bill passed 85 to 9.

This kind of obstruction has always been possible in the Senate but for most of our history it never happened. In 1994 the Senate passed a few appropriation bills in June and most of the rest in July. By September 30 we finished every conference report and delivered every bill as separate legislation to the president. But the old rules do not work with the current Senate membership. It is no longer possible for the Senate to consider all 12 appropriation bills—and in particular consider them before the beginning of the new fiscal year. They are now immaculately conceived in conference some months after the fiscal year has begun and without ever having been debated by the full Senate. Lengthen the fiscal year and you simply give the Senate more time to cogitate about when they will abandon their broken system. It would be far better to address the real problem.

In 1974 the Senate agreed to an important exception to the rule of unlimited debate—an exception that we now refer to as reconciliation. It is time for the Senate to adopt a second exception to ensure the deliberate and timely consideration of all appropriation measures. All debate on each measure could be limited to no more than 16 hours—except that each senator who chose to offer an amendment could do so even if the 16-hour time limit had been exceeded. Debate on a single amendment could be limited to one hour.

If this kind of reform were enacted, then most senators would have more say in appropriation matters than they do presently. The Senate would be able to pass funding bills and get their bills to conference committee with the House in time to send final legislation to the president before the beginning of the fiscal year. And a more orderly and structured approach to appropriations would free the Senate to spend more time on other important legislation.

Conclusion

We must be realistic about what we are capable of doing. We cannot see far enough over the horizon to effectively allocate resources three years in advance. We can and must restore a system of annual budgeting that will pose much less risk to the country than experimenting with a system that will almost certainly weaken a branch of this government that is too weak already.