

HOUSE BUDGET COMMITTEE HEARING

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Key Budget Process Reforms

Testimony of Charlie Stenholm, Government Affairs Advisor of Olsson, Frank and Weeda, P.C And Former Member of Congress

Mr. Chairman, Congressman Spratt and Members of the Committee, I am Charlie Stenholm, former Member of Congress from the 17th District of Texas and currently a Government Affairs Advisor at Olsson, Frank and Weeda. I am also a member of the Board of Directors of the Committee for a Responsible Federal Budget and the Concord Coalition. This testimony is my own and does not represent any position or conclusion of any of these organizations.

I am particularly pleased to be on a panel with Bill Frenzel talking about ways to improve budget discipline. I served with Bill for many years in Congress, where he was one of the most respected voices on budget policy. I am now proud to serve with him on the board of the Committee for a Responsible Federal Budget.

In my twenty six years in Congress, I worked with many members on both sides of the aisle, including several members of this committee, fighting to leave a better future for our children and grandchildren. I am very pleased that members of Congress are taking an active interest in exploring ways to restore discipline and accountability in the budget process.

One of my proudest moments in Congress was when the House passed the Balanced Budget Amendment to the Constitution, and one of my greatest disappointments was when the Senate fell one vote short of approving it. A Balanced Budget Constitutional Amendment and strong budget enforcement rules would protect the rights of future generations who are not represented in our political system but will bear the burden of our decisions today. If a Balanced Budget Amendment were already in the Constitution, we would not have been able to enact the budget policies advocated by the majority that have resulted in a rapid increase in our national debt over the last four years.

The Opportunity for Bipartisanship

I want to commend the Democratic and Republican members of this committee who have put forward serious proposals to enforce fiscal discipline. Jeb Hensarling and Paul Ryan have been leaders keeping this issue on the front burner. On the Democratic side, Jim Cooper and Dennis Moore have done yeoman's work in putting forward proposals to establish greater fiscal discipline. While there are some differences in the approaches, I believe that the authors of these proposals share a common goal of bringing greater discipline to the budget process. I believe there is a real opportunity for bipartisan cooperation on meaningful budget enforcement legislation.

The Blue Dogs' "Twelve point plan for restoring fiscal sanity" includes many proposals I advocated while I was in Congress. The Blue Dog plan is a package of three legislative proposals: A Balanced Budget Amendment to the Constitution, legislation reinstating and strengthening statutory budget enforcement rules and changes in the rules of the House of Representatives to improve the transparency and accountability of the legislative process.

The Blue Dog twelve point plan is a credible, balanced package that offers the potential for bipartisan agreement on meaningful reforms. Many of the provisions in the Blue Dog plan were included in the Family Budget Protection Act proposed by the conservative Republican Study Committee or the budget process reform legislation authored by Chairman Nussle in 1999.

I would encourage the Committee to look at the common elements of these three plans as well as other budget process changes with bipartisan support as the starting point for budget process reform and continue bipartisan discussions to find common ground on other issues. Serious proposals for reform should not be rejected by one part or the other simply because they were proposed by a member of the other party.

The Need for Strong and Balanced Budget Enforcement Mechanisms

Budget enforcement rules are not a substitute for making the tough choices that will be necessary to restore fiscal discipline. If there is not the political will in Congress to maintain fiscal discipline, any budget process rule or statutory enforcement mechanism can be evaded in order to enact politically popular legislation that would increase the deficit.

The value of budget enforcement rules is to establish the presumption in favor of fiscal discipline and placing greater accountability for actions that undermine fiscal discipline. Budget enforcement rules can raise a red flag for legislation that would increase the deficit and hold all of us accountable for our decisions. If it is the will of the majority to pass legislation that would make the budget situation worse, Congress should be forced to accept responsibility for doing so.

If we are truly serious about restoring fiscal discipline, budget rules must apply to all parts of the budget, both spending and revenues. All parts of the budget must be on the table. Everyone needs to be pulling – we can't do it if some folks are riding. It is irresponsible and politically unrealistic to propose budget rules that apply to one part of the budget but not others. Applying budget discipline to all parts of the budget is necessary to earn the bipartisan support that will be necessary to enact and maintain effective budget enforcement rules. Exempting part of the budget from budget discipline will undermine the credibility of any enforcement mechanism.

Returning to What Has Worked – PAYGO and Spending Caps

My philosophy on budget issues has always begun with some simple West Texas Tractor Seat Common Sense – When you find yourself in a hole, the first rule is to quit digging. Dealing with our budget deficit must begin with reinstatement of budget enforcement rules to take away the shovels from Congress and the administration.

Any serious effort to restore fiscal discipline should begin with reinstating the pay as you go budget enforcement rules and discretionary spending limits restricting the ability of Congress and the President to enact legislation that would increase the deficit. These budget enforcement rules, which Congress and the President enacted in 1990 and extended in 1997 with bipartisan support, were an important part of getting a handle on the deficits in the early 1990s and getting the budget back into balance.

Reinstating paygo rules and discretionary spending limits would not by balance the budget, but doing so would represent an important first step in bringing discipline to the budget process by prohibiting policy changes that would further enlarge the deficit. They have been tested, and they worked. They didn't always work perfectly, but there is no question that they significantly improved the responsibility and accountability of the budget process.

The principle of paygo -- if we want to reduce our revenues or increase our spending, we need to say how we would pay for it within our budget – is something all families understand. If we want to reduce our revenues, we need to say what spending we will do without. If we want to increase spending, we need to say where we will come up with the revenues for the new spending or what other spending we will do without.

The concept of applying PAYGO rules to all legislation -- spending and revenues -- has received support from both sides of the aisle since it was originally enacted. “Two-sided” PAYGO was originally enacted in the bipartisan budget agreement of 1990 and extended in the bipartisan balanced budget agreement of 1997. Furthermore, it was included in the budget passed by the Republican Congress in 1995. Applying pay-as-you-go rules to tax cuts does not prevent Congress from passing more tax cuts. All it would require is that Congress must identify another source of revenue or spending reduction if it wants to enact or extend a tax cut.

Those who want to extend expiring tax cuts or make the tax cuts permanent should be willing to put forward the spending cuts or other offsets necessary to pay for them. Similarly, those who want to spend more in certain areas need to be willing to say where they would cut or how they would raise revenues to pay for their proposals.

I would say with all due respect to my Republican friends that if you are sincere in what you say about controlling spending, you should not have a problem with reinstating pay as you go for taxes as well as spending because it would force Congress to actually cut spending to accompany tax cuts instead of just promising to cut spending in the future. The problem is that the actions of the majority in Congress haven't matched the rhetoric. Congress and the administration have cut taxes without cutting spending, and have charged the difference to our children and grandchildren by increasing the deficit.

There has been an argument that applying paygo is biased against tax cuts because the costs of extending entitlement programs are included in the baseline and would not need to be offset, while extending expiring tax cuts would be scored as a new cost that would need to be offset. That argument ignores the fact that Congress got credit for savings on paper by establishing the sunset. By contrast, applying a sunset to entitlement legislation does not achieve any savings. The baseline assumes the extension of entitlement programs because, unlike tax cuts, the costs of extending entitlement programs are scored and subject to budget discipline at the time they are enacted.

The tax cuts enacted in 2001 and 2003 are expiring because Congress included a sunset provision when they were initially enacted to limit the official cost. This was done in part to circumvent budgetary limits in place at the time. The cost of the tax cuts would have been several hundred billion dollars higher over that period if the tax bills had not included sunsets. Those additional costs were not subject to budget limits when the tax cuts were originally enacted. Making tax cuts permanent without considering their budgetary impact over the long-term and exempting their costs from budget enforcement would mean that those costs would never be subject to budget discipline.

The Committee may want to consider changes to baseline rules to treat future tax cuts the same as entitlement legislation -- score the costs of the tax cut as if it is permanent, and then include the costs in the baseline. That would eliminate the incentive to use sunsets to artificially limit costs. But since the costs of extending the tax cuts was not scored when they were enacted, those costs should not be in the baseline. Put another way, Congress should not have gotten credit for "savings" by establishing a the sunset, but since Congress took credit for those "savings" then it should be charged with a cost when the sunsets are repealed.

I would encourage the Committee to examine ways to prevent budget gimmicks intended to circumvent PAYGO rules. Potential improvements of PAYGO include prohibiting spending or tax legislation that delays costs outside of the five year window, prohibiting the use of "directed scorekeeping" in which legislation directs CBO to use certain assumptions to provide a more favorable budget estimate and requiring a separate vote to exempt legislation from PAYGO.

Congress should also establish a statutory limit on total discretionary spending, with flexibility to shift funds within the overall limit. I believe there would be bipartisan support for legislation establishing discretionary spending limits at reasonable levels *if* they were accompanied by PAYGO rules which applied discipline to the rest of the budget, including revenues.

The cap should be set at a level which will impose an attainable amount of spending restraint. I would suggest that separate vote be required to increase spending above the discretionary spending limits, instead of including an increase in spending limits as part of an omnibus appropriations bill as has been the case in the past.

Statutory limits on discretionary spending enforced by sequestration can be an effective tool for fiscal discipline if they are set at reasonable levels. However, discretionary spending limits can actually work against fiscal discipline if they are set at unrealistic levels. The discretionary spending limits enacted in 1990 and extended in 1993 were quite successful in restraining discretionary spending. By contrast, the much more restrictive spending caps enacted as part of the 1997 budget agreement proved to be unrealistic and were effectively ignored, leaving no credible restraint on discretionary spending in place.

Increasing the Debt Limit

There has been a great deal of attention over the last few days about the need to raise the debt limit for the fourth time in five years. While raising the debt limit is something that Congress must do, increasing the debt limit should be accompanied by a full and open debate about the fiscal policies that have made the increase necessary and a discussion about what should be done to stem the tide of red ink.

The House of Representatives has been able to avoid this type of debate through the so-called Hastert rule, which provides that an increase in the debt limit shall be deemed to have passed without a separate debate or vote when the budget resolution conference report is adopted. This rule should be repealed and replaced by a requirement that the debt limit be subject to a full debate in committee and on the House floor.

In addition, I believe that any long-term increase in the debt limit should be accompanied by a plan to restore fiscal discipline. I would propose that Congress approve a short term increase in the debt limit to avert the imminent crisis and provide for a longer increase in the debt limit contingent upon Congress taking action to reinstate paygo rules and other budget enforcement mechanisms.

Emergency Spending

The emergency designation was established in 1990 to allow spending above spending limits in response to unforeseen emergency needs. Between 1991 and 1997, the emergency spending designation was used primarily to cover the costs associated with natural

disasters, averaging roughly \$7 billion a year. However, in recent years the amount of emergency spending has increased dramatically. Between 1998 and 2002, emergency spending averaged \$32 billion a year as the emergency spending designation was used to circumvent spending limits. Emergency spending has turned into a giant loophole for non-emergency spending.

Congress should establish criteria for emergency spending and require the President and appropriations committee to provide justifications for emergency spending based on the criteria. Previous proposals have sought to define emergency spending as spending for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security that is sudden, urgent, unforeseen and temporary.

The budget should also include a rainy-day fund—something that 45 states currently do. A rainy day or reserve fund would require Congress to set aside funding levels reflecting the average costs of past years' disasters to prepare for unforeseen disaster related costs. While the costs of responding to Hurricane Katrina would have exceeded the amount in the rainy day fund, at least we would have been starting from a better fiscal position.

Improving the Accountability of the Budget Process

Budget rules only work if they are enforced. Unfortunately, budget act waivers have become a routine part of the legislative process. Both the Blue Dog Twelve Point Plan and the Republican Study Committee Family Budget Protection Act include provisions increasing the accountability of the legislative process by making it harder to waive the Budget Act.

The Blue Dog plan would strengthen the Budget Committee's oversight role by requiring the budget compliance statements from the Budget Committee accompany every bill that is reported out of committee for consideration by the full Congress. The Rules Committee would be required to specifically list all budget act waivers and provide a justification for the waiver instead of providing a blanket waiver without explanation. The Blue Dog plan would also require a separate vote to waive major budget act points of order. The Republican Study Committee plan would go even further, requiring a two-thirds vote to waive points of order. I encourage the Committee to give serious consideration to these and other proposals to increase the transparency and accountability of the budget process by shining sunlight on budget act waivers and requiring Members to take responsibility for waiving the budget act.

Eliminating Low-priority and Unnecessary Spending

One small step that would help restore a small measure of fiscal discipline is enactment expedited rescission legislation strengthening the ability of Presidents to identify and eliminate wasteful or low-priority spending items in appropriations bills or targeted tax preferences in tax bills.

The Line Item Veto proposal proposed by President Bush is virtually identical to expedited rescission legislation I first offered in 1993 requiring Congress to vote up or down by majority vote on rescissions submitted by the President. Expedited rescission legislation embodies an idea which many Members, both Democrats and Republicans, have advocated for years. Senator Carper was an early leader on this issue, working with Dick Armey, Tim Johnson and others to find a bipartisan consensus on this issue. Last year, I joined with Congressman Paul Ryan to offer an amendment granting the President expedited rescission authority. This approach has now been embraced by President Bush.

Many of us who opposed the original Line Item Veto as an unconstitutional shift of power from the legislative branch offered expedited rescission or “modified line item veto” as a Constitutional alternative. In fact, when the House of Representatives initially passed the Line Item Veto Act in 1995, I offered an amendment that would have added expedited rescission authority as a fallback that would be available if the Line Item Veto was ruled unconstitutional. The majority rejected my amendment, and when the line item veto was struck down the President was left without an effective tool to eliminate low-priority spending. I can’t help but wonder what would have happened if Republicans in Congress had joined me to enact expedited rescission into law over a decade ago. Perhaps expedited rescission could have prevented the explosion of earmarks that has occurred over the last ten years.

Expedited rescission legislation would bring greater accountability to the budget process so that individual appropriations and tax items may be considered on their individual merits. The current rescission process does not make the President or Congress accountable. Congress can ignore the President's rescissions, and the President can blame Congress for ignoring his rescissions. I believe that it is appropriate to strengthen the President's ability to force votes on individual budgetary items. This reform will not make a significant dent in our deficit. But it will have a very real cleansing effect on the legislative process and will take a step toward reducing the public cynicism about the political process.

Expedited rescission authority can be an important tool for eliminating wasteful spending, if the President uses this tool. I have been disappointed that President Bush has not exercised his authority under current law to send Congress a rescission list of low-priority spending and pork barrel projects that he wants Congress to eliminate. I would encourage the President to make use of his rescission authority whether or not Congress enacts expedited rescission

Another tool that Congress should consider to eliminate low-priority spending is sunset legislation to provide for a regular review of the efficiency and public need every federal agency, department and program. This would require agencies to justify their existence to taxpayers and Congress and provide an opportunity for Congress to consider changes in operations of an agency and the programs it administers, create new efficiencies, and eliminate obsolete programs or offices.

Not only would sunset legislation provide for abolishment of obsolete federal agencies and streamline others, it would encourage Congress as well as agencies to look for ways to improve programs to better serve taxpayers. A similar law is used in nearly half of the states including Texas, which has eliminated 44 agencies, saving Texas taxpayers \$720 million.

Addressing Long-Term Fiscal Problems

As serious as our near term budget problems are – and they are very serious – the long term problems we face as the baby boom generation begins to retire in 2008 are even greater. We need to bring more attention to the long-term liabilities facing our nation as part of the budget process.

Budget process rules should focus more attention on long term fiscal challenges and make it harder for Congress and the President to enact policies which make the long-term fiscal gap worse. The President's budget and Congressional budget resolution should include more information about the unfunded liabilities of Social Security and Medicare and the long-term fiscal gap. I would also encourage the Committee to examine the possibility of incorporating accrual accounting into the budget process where appropriate as a supplement to current budget presentation.

The Senate has taken some steps to bring attention to long term fiscal issues in the budget process by establishing a point of order against legislation with long term costs that exceed \$5 billion over a ten year period after 2015. The Medicare Modernization Act set in place a mechanism to monitor the costs of the Medicare program. The effort to focus greater attention on long term fiscal problems is encouraging. However, these rules would have more credibility if the same level of discipline and review was applied to the revenue side of the ledger.

I had hoped that last year would be the year that Congress and the President would take action to address the financial challenges facing Social Security, but neither party seemed interested in a serious discussion about the tough choices that will be necessary. These challenges will continue to get worse and become harder to address the longer we wait. And the challenges facing Medicare and Medicaid are even greater.

The experience of last year convinced me that we need to establish a bipartisan commission to objectively review all the options for reforms of our entitlement programs and make recommendations to Congress and the President. Senator Chuck Hagel, a Republican from Nebraska and Congressman John Tanner, a Democrat from Tennessee, introduced legislation that would establish such a commission. Creating a bipartisan commission to examine the challenges that the Baby Boom retirement will have on entitlement programs presents an opportunity to get a fresh start on the debate and move toward a solution.

There is justifiably cynicism in Washington about proposals to establish a commission to study an issue. There are bookshelves filled with dust-covered reports from commissions

that went nowhere. This commission may be destined for the same result. But this commission has the potential to move the debate forward if the President follows through on his pledge to address the issue in a bipartisan manner and continues to make addressing the long-term challenges facing entitlement programs a priority.

Finding a politically viable and equitable solution to these challenges will require bipartisan discussions in which all options are on the table for consideration. The Commission should have one basic ground rule – all options should be on the table and members of the Commission should not go into the process with preconditions about what must be included or excluded from a final solution. Everyone must resist the temptation to immediately shoot down ideas they don't like. Let an idea fly in the public debate long enough to consider its merits.

I agree with former Treasury Secretary Rubin that the commission should be allowed to examine rolling back tax cuts and other options to increase revenues. Increasing taxes to meet the growing costs of meeting our obligations to Social Security, Medicare and Medicaid as the baby boom generations retire is a legitimate option that the commission should be allowed to consider. Likewise, keeping taxes at current levels will require substantial changes to scale back the costs of these entitlement programs. In all likelihood the solution will require a combination of changes to restrain spending and increases in revenues. The Commission should be allowed to consider and discuss the full range of options and debate the tradeoffs.

The budget process can play a role in ensuring that the Commission's work receives the attention it deserves. The appointment of a commission should be accompanied by a procedure requiring Congressional consideration and vote on the commission recommendations either as part of the budget process or in separate legislation. To put even more teeth into this requirement, budget rules should prohibit the consideration of any tax cuts or entitlement spending increases with long term costs until Congress has addressed the existing long-term fiscal challenges by approving the Commission's recommendations or an alternative approach to closing the long-term fiscal gap.

As this Committee examines ways to improve budget enforcement, I wanted to raise a concern about an effort to circumvent budget rules. House and Senate conferees on the reconciliation tax bill are reportedly considering a proposal to "pay for" the costs of a short-term tax cut through 2015 by enacting a long-term tax cut that would raise revenues in the short term budget will reduce revenues — and increase the deficit.

Using this transparent gimmick to evade the Senate rule prohibiting reconciliation bills from increasing long term deficits would undermine respect for, and the effectiveness of, budget procedures intended to promote long-term fiscal responsibility, including procedures aimed at limiting increases in entitlement costs in years outside the budget window. Enacting a provision that worsens the long-term fiscal outlook in the name of complying with budget enforcement rules is a vivid illustration of the myopic thinking that currently characterizes, and distorts, the budget process.

Conclusion

As I said at the beginning of my testimony, budget process reforms can be a tool to help Congress restore fiscal discipline. To be effective, however, budget enforcement mechanisms should have bipartisan support and must apply to all parts of the budget. Perhaps most importantly, there must be a commitment to enforce whatever budget rules that are established. No amount of budget rules and enforcement mechanisms will succeed in restoring fiscal discipline if Congress is willing to rely on waivers, budget gimmicks or other ways to circumvent budget rules.

I hope that this Committee follows up on this hearing by beginning bipartisan discussions to reach a consensus on changes to improve the budget process. I am willing to help in any way that I can.