

Forthcoming in Public Budgeting and Finance, March 2025

Commentary: Celebrating the Pyrite Anniversary of the Congressional Budget Act

Roy T. Meyers

Professor Emeritus of Political Science at UMBC (University of Maryland, Baltimore County).

He can be reached at meyers@umbc.edu.

Abstract

The congressional budget process has not aged well after years of polarized partisan competition. Republicans in control of government may enact budget resolutions and reconciliation bills, or instead end the filibuster. Though debt levels need to be reduced, Republicans favor tax cuts. This places the burden on spending cuts, which lack an election mandate, and that will be opposed strenuously by beneficiaries. Republicans plan to outsource the generation of spending cuts to a non-expert “Department of Government Efficiency,” and to empower the President to impound funds. The conditions of President Trump’s reelection will endanger the legitimacy of budget decisions.

Key Takeaways

--After the turn of the millennium, the Congressional budget process has failed to meet the aspirations of its authors.

--Legislative and budgetary norms have greatly weakened; debt ceiling crises and so-called “action-forcing procedures” have replaced regular order.

--The process has not prevented the growth of federal debt, which is projected to reach a level that risks a fiscal crisis.

--Selected process reforms could build the capacity to budget intelligently, but consideration of those approaches has been crowded out by partisan and ideological behavior.

--The Trump administration and many of its supporters in Congress intend to weaken the Congressional Budget Act's assertion of legislative spending powers and the neutral competence of budget analysts.

INTRODUCTION

I thank the editors for the invitation to expand on Joyce's excellent article on the Congressional Budget Act (CBA). As I will cite my own work, which occasionally relied on metaphors to make serious points, my only quibble with Joyce is his metaphor of a mid-life crisis at age fifty. That's a plausible age for humans, but I think the midlife crisis of the CBA came earlier, at age twenty eight, in 2002, when Vice President Cheney told Treasury Secretary Paul O'Neill that "Reagan proved that deficits don't matter." This concluded a five year turn from the prior period when fears of larger deficits, and consequent deficit reductions, were prominent. Since then, deficits have grown substantially, but without stimulating realistic and sustainable actions to control them.

Twice the CBA's current age of fifty is one hundred. In 2021 budgeters celebrated the centennial of the 1921 Budget and Accounting Act (AABPA/ABFM/NAPA, 2021). Institution building and presidential actions since that act's adoption have proven the general desirability of having the president oversee budget preparation and execution (Meyers and Rubin, 2011). Of

course, the record is far from perfect--giving a president budgetary responsibility does not guarantee he, or she, will follow through.

Executive budgeting overreach was the proximate reason why Congress adopted the CBA--its formal title was the Congressional Budget and Impoundment Control Act (CBICA)--after President Nixon unconstitutionally refused to spend appropriated funds.¹ The other main cause was congressional dissatisfaction with its own incapacity to budget. Unfortunately, fifty years later, the budgetary incapacity of Congress is just as glaringly obvious. So it may make sense to replace the midlife crisis metaphor with one drawn from a list for anniversary celebrations. The fiftieth anniversary of weddings is called the “golden” one. Given the depths to which the congressional budget process has fallen, we might instead label the fiftieth anniversary of the CBA as the “pyrite,” or fool’s gold anniversary.

While pyrite is a useful substance, its value falls far short of what stake miners for gold hope to find. That hope is usually unrealized--gold mining is a high-risk enterprise. The ambition of congressional budgeting could similarly be viewed skeptically--if not a “fool’s errand,” at least it would be very hard to pull off. The budget process adopted in 1974 was overlaid on the traditional committee structure and added to the already convoluted legislative process. By how much it has added to that complexity strains belief: Dauster’s invaluable procedural compilation on the CBA is 1,567 pages long (Senate Budget Committee, 2022).

¹ As Joyce mentioned, the CBICA has effectively controlled presidential impoundments, with some important exceptions such as Trump’s withholding of aid to Ukraine. The related Article 1 frontier is the ability of presidents to increase spending and reduce revenues through administrative actions (Reynolds and Wallach, 2020). The Biden administration’s attempts to cancel student loan debt were repeatedly blocked by courts for lacking legislative authorization. Pasachoff provides a limited discussion of how such “spending releases” might otherwise be controlled (2004).

Unlike the executive branch, which has a clear authority figure at the top, Congress is bicameral. The informal job description for a Senate party leader is “herding cats.” Around when the CBA was adopted, the majority House Democrats adopted reforms that decentralized power from committee chairs to a mess of subcommittees, but which also subjected committees to discipline from the party caucus. They, and the authors of the CBA, had no idea how much more partisan American politics would become, and how that would end up shifting power within Congress to party leaders. Particularly influential was the rise of Newt Gingrich, who took on compromise-oriented leaders in his own party by castigating their motives and effectiveness, and then intensified his strategy to wage war on Democrats, and then gaining control of the House.

While Gingrich didn’t last long as party leader, his legacy was immense. Most new Republican legislators copied Gingrich’s oppositional style, and the ideological position of most Republicans moved far to the right. Many Democrats also moved away from the center, and the result was hyper-partisan polarization. Each side came to see a policy victory by the other side not as a mere loss but rather as a disaster. Electoral margins also tightened. Legislators thus felt obligated to cede authority to party leaders, who could structure the legislative process in hopes of increasing the odds of winning the next election. Often this was by messaging using symbolic votes, with no negotiations between parties and with no intent to attain final passage--the opposite of the give and take of classic budgeting.

As inaction has become routine, Joyce’s negative appraisal correctly focuses on late appropriations, missing reauthorizations, and undrafted or unadopted budget resolutions. In the absence of budget resolutions, the “four corners” negotiators (either the appropriations

committees leaders or chamber partisan leaders) delayed reaching agreement on appropriations totals and subtotals. Sometimes this happened not until after the fiscal year began, and then negotiations to wrap up the twelve regular appropriation bills took months longer. Policy differences between the parties impeded timely reauthorizations, putting more burden on the “must pass” (eventually) appropriations bills to carry desired legislative language (Ryan and Minkoff, 2023). Even the recent return of earmarks, which advocates said would encourage timely passage of bills because more members would have credit claimable projects in the bills, didn’t help. In fact, legislators who received earmarks felt free to vote against passage (Wallner, 2021; Kane, 2024).

What about periods when a majority party held the “trifecta” of unified control?

This was the condition for the following years since my 2002 dating of the “midlife crisis”: 2003-2006, 2009-2010, 2017-2018, and 2021-2022.² In those years a majority party could hope to operate as what some political scientists labeled a “legislative cartel” (Cox and McCubbins, 1993). It had no need to seek budgetary cooperation from the opposing party because it could use the reconciliation process to eliminate the Senate minority’s blocking power of the filibuster.

That is, as long as the majority agreed on substance. A notable example of the potential for intraparty disagreement during unified government was Senator McCain’s thumbs down on the Republicans’ 2017 attempt to repeal but not replace the Affordable Care Act (ACA). Rather than acting as a legislative cartel, the would-be majority should have known that the more accurate model of legislative management was what political scientists call “conditional party government” (Aldrich and Rohde, 2000). A majority party will dominate only when the two

² Republican unified control that started the 2001-2002 Congress ended when Senator Jeffords shifted his party affiliation from Republican to independent.

parties are polarized and the majority party is homogeneous. It also helps to have a large margin of votes.

The polarization condition has long been met, but especially in the last few years the homogeneity condition was not. Thirty some House GOP members of the Freedom Caucus, during a period of divided government and when the Republicans had only a few votes to spare, acted as if they were the leaders of a legislative cartel. Every party caucus has always had some outliers, but this was an abnormally high percentage of uncooperative members. Using the threat to vacate the chair of the House Speaker, and then acting on it by defenestrating Speaker McCarthy, they demanded that House-passed legislation be written to their specifications, and that the House insist on its bills, not compromising with the Senate and President.³

One result was that the 118th Congress (2023-2024) was among the least productive in history, including on the budget. Here's a brief summary of budget actions, and inactions, in calendar year 2024. Fiscal year 2024 appropriations bills, which should have been enacted by October 1, 2023, were completed on March 23, 2024, with eleven of twelve regular bills in an omnibus. President Biden sent his budget to Congress on March 11, more than a month late. The House Budget Committee adopted a budget resolution on March 7 (early!) by a party line vote, but never brought it to the House floor. The Senate Budget Committee didn't even try to mark up a budget resolution, and a third of its hearings were on climate change--important, but not the committee's jurisdiction. During the summer, the House Appropriations Committee reported all twelve of the regular bills and the Senate Appropriations Committee reported eleven,

³ This unrealistic demand was present in the Republican Conference since the Boehner speakership of 2011-2015, and caused big problems for his successor, Paul Ryan, who had made his reputation with comprehensive budget proposals. The title of a 2016 CQ Magazine article is representative: "No Budget Resolution? No Problem Say House Conservatives."

but none of the Senate bills reached the floor. Five of the House bills passed on the floor, and another was defeated. In late September a continuing resolution (CR) lasting through December 20, 2024 passed, but only because the speaker relied on Democratic votes to pass it after the majority's bill that would have lasted through March 18, 2025 failed to gain the majority's support.

Following the Republicans' election victory, leaders of the two parties negotiated for over a month, and proposed an omnibus CR lasting through mid March, and that included numerous authorizations and extra spending such as for disaster assistance. It failed to pass the House after Trump donor Elon Musk tweeted numerous inaccurate attacks on the bill. Just as important was President-elect Trump's demand that the CR include a "fix" for the debt ceiling suspension which would expire at midnight on January 1, 2025. With a new debt ceiling Treasury could use (now routine) "extraordinary measures" in order to pay the bills for about half a year. Trump's demand upset conservatives who had often refused to support past statutory increases in the debt limit, using the process as an opportunity to spotlight deficit increases, push procedural changes, and blame Democrats. And while many Democrats would like to eliminate the debt ceiling, they were not going to give Republicans a free pass to enact deficit-increasing tax cuts.

Though in his first term Trump said he was "proud" to shutdown government over funding for border security, now he called for the shutdown to occur on Biden's watch. At the last minute Congress avoided that by passing a smaller CR, with no debt limit provision, to last into March 2025. That was the extent of 2024's budget process success: not repeating the long shutdowns of 2013 and 2018-2019.

Going into 2024, while the fine details of what would happen were unpredictable, everyone in Washington expected a budget process that would be resolved no earlier than the end of the calendar year. This is analogous to Senator Moynihan's complaint about "defining deviancy down": budget process disorder had become the regular order.⁴ Returning to Joyce's mid-life crisis metaphor, perhaps an anthropomorphized Congress should be best viewed as a patient who long engaged in a number of unhealthy budgeting behaviors (for the nation, that is, if not for its incumbents' political careers). The worse case diagnoses are that the patient has a terminal disease, or that it already deserves a proper burial and wake.⁵

Joyce's article more optimistically views the CBA as having a future, even if it may not be very successful. When requesting this commentary, the editors thus asked me to address two of Joyce's big questions about that future: whether it is possible to revitalize the budget resolution, and whether reconciliation should be changed. I analyze these in light of the 2024 election result; many people projected prior to its completion that this election would be the most consequential of their lifetimes. I also project that the conditions of the Republicans' victory will cause many citizens to view budget decisions as illegitimate.

WILL THE BUDGET RESOLUTION BE REVITALIZED?

For some time now, the Congressional Budget Office has projected in its baseline that total deficits, primary deficits, and outlays for net interest will significantly exceed historical

⁴ Regular order used to be a revered ideal. Wolfensberger, a former top Republican staffer, broadly defined it as "those rules, precedents and customs of Congress that constitute an orderly and deliberative policymaking process. The process includes an objective assessment of the problem through inclusive information-gathering; a balanced weighing of alternative solutions and coming to final judgment on a solution through robust debate among all parties" (2013).

⁵ Or to shift species, it might be a dead parrot (Meyers, 2009).

averages.⁶ CBO has warned that not reducing these levels will cause an exploding debt dynamic. Joyce thus asks: “Can the budget resolution can be rescued as a meaningful way for the Congress to affect fiscal policy?” By implication he means reducing the deficit, as he highlights the reasonable proposal that budget resolutions set an explicit target for debt reduction, such as a debt to GDP ratio.

In 2011, Posner wrote an insightful paper that explored whether only a sovereign debt crisis would convince Congress and the President to reduce public debt. The paper was written after the 2007-2008 financial crisis caused a large increase in debt. The Tax Cuts and Jobs Act of 2017 (TCJA), the Covid-19 pandemic, and legislation passed from 2020 to 2022 led to a similarly large increase in debt. The debt to GDP ratio approached 100%, two-and-a-half times larger than the ratio in the year before the financial crisis. Despite this growth, and contrary to predictions by deficit hawks, the U.S. has continued to borrow without difficulty. But the United States’s “exorbitant privilege” in the sovereign debt market won’t continue forever. The Penn Wharton Budget Model analyzed this risk in 2023, and concluded that the U.S. could continue to borrow at projected levels and avoid default for at most twenty years, but likely fewer. In the meantime, growing debt would crowd out productive private investment and growing interest payments would crowd out desirable government spending.

Posner observed that other countries had adopted major fiscal consolidations before being forced by credit markets to do so, and then analyzed political factors that might cause similar actions within the United States (see also Posner and Sommerfeld, 2012). Particularly important would be strong support by the public for the idea that deficit reduction would produce better economic outcomes. Political leaders typically must construct and convincingly communicate

⁶ That baseline is too optimistic, as by law it includes tax increases scheduled for 2025 that are highly likely to be repealed.

this argument. Expecting it to arise organically from a public that is understandably confused by budgetary and economic facts is unrealistic. That's especially the case when the public is fed distortions, like Republicans' recent argument that the post-Covid inflation was due entirely to higher government spending (ignoring the contribution of unavoidable constrictions in supply chains), or Democrats' typical "they cut Medicare benefits" charge against Republicans (when only the rate of growth of provider reimbursements was being reduced).

Given high partisan competition, it is unrealistic to expect parties to forego simplistic blame generation arguments like these. That is one reason why it has been so hard for politicians to reach agreements on a grand bargain for debt reduction.⁷ Consequently some reformers have advocated two alternatives to Congress taking explicit responsibility through the annual budget resolution process. Both are intended to enable a major fiscal consolidation and provide the competing parties with substantial blame avoidance for any negative effects.

One approach is delegation to "independent" bodies, usually in the form of a specially appointed commission. A model for this is the Base Realignment and Closure process for reorganizing and downsizing the Department of Defense's base structure. A success in its first use, its iterations have arguably been no more effective than what would be produced in the regular National Defense Authorization Act process. And though basing decisions do present difficult political choices for legislators who have regional preferences, resolving those conflicts is a much smaller problem than resolving the many conflicts inherent in composing a comprehensive federal budget.

⁷ In contrast, over the years policy expert groups have published a number of credible plans. A recent example is Grand Bargain Committee, 2024.

The other approach is another try with so-called “action-forcing procedures.” These adopt into law, conditional on further inaction, greatly undesired deficit reducing policies, in order to incentivize elected officials to enact somewhat less undesired deficit reducing policies. This approach largely failed first under Gramm-Rudman-Hollings, and then under the Budget Control Act, because the more undesirable plans could be canceled before they were scheduled to occur. There wasn’t enough political will to prevent incredible budget commitments from becoming political will nots (Meyers, 2014).

Now that we have Republican unified government, interest in these approaches is reduced. The budget resolution will likely come back, at least for now, as a method of coordinating and communicating the majority’s agenda, and procedurally protecting some of this agenda from the Senate minority’s opposition.⁸ But what will that agenda be?

THE GOP AGENDA

The Republican 2024 victory left the House controlled by Republicans by a very slim 220-215 margin, the Senate flipped to Republican control by 3 votes, and the White House again occupied by President Trump. Explanations of this result are numerous and highly contested, and won’t be reviewed here, but there is no doubt that budgetary issues, and deficit control especially, played little to no role in the election. This is unlike, say, the 1992 election, in which the deficit hawk Ross Perot received 18.9% of the popular vote. In contrast, the incumbent President George HW Bush lost support among his co-partisans for reversing his “Read my lips: No new

⁸ Since Congress did not pass a budget resolution in 2024 for FY 2025, it could belatedly pass that resolution to enable a reconciliation bill that would cut spending and raise the debt ceiling, and then pass another one to enable a FY 2026 reconciliation bill that would cut taxes.

taxes!” 1988 election stance by signing the 1990 Budget Enforcement Act, which included revenue increases.

In 1992, Clinton’s strategy of “It’s the Economy, Stupid” didn’t emphasize deficit reduction, though he did adopt a deficit hawk stance shortly after winning. Trump’s 2024 campaign also criticized the incumbent party for a lackluster economy, focusing on voters’ discontent with inflation, but unlike historic Republican rhetoric from Eisenhower to Reagan, he did not feature deficit control as a mechanism for reducing price growth. Most of his rhetoric emphasized extravagant claims about his previous term, and grievances about, insults of, and promised revenge against Democrats, the media, immigrants, and other “enemies from within.” Though experts debated how this behavior fit within a range from authoritarian to fascistic, it was not disqualifying to many voters.

Also attractive to many voters were Trump’s policy promises with budgetary effects, mostly on the revenue side: hiking tariffs as a claimed substitute for the income tax and as promoter of home industries, and eliminating taxation of Social Security benefits and of overtime and tip income. The latter promises were campaign-inspired pandering (e.g., not taxing tips was announced in Las Vegas, and me-tooed by Harris), would encourage taxpayer accounting gimmickry for overtime and tips, and accelerate Social Security insolvency by stripping benefit taxation flows from the trust funds. Supporting protective tariffs has long been one of Trump’s favorite policies, as it was among Republicans during the first Gilded Age, but they will be opposed by U.S. businesses that rely on imported goods for their supply chains. Almost all economists observe that the tariffs would be highly inflationary, potentially problematic for a party that blamed the previous incumbent’s policies for inflation. Another inflationary stimulus

would come from a promised mass deportation of undocumented immigrants, though that would be very difficult to implement.

In its review of the 2024 campaigns' plans, the Committee for a Responsible Federal Budget (CRFB) calculated that Harris would increase the public debt by \$3.95 trillion over ten years and that Trump would nearly double that amount at \$7.75 trillion (CRFB, 2024).⁹ As always, though, campaign promises are far from guaranteed to be adopted, even by unified governments. Predictions may be improved by also scrutinizing past performance.

Ever since 1978 with the success of Proposition 13 in California, the issue that has most unified the Republican party is tax cuts. According to CRFB's projections, \$5.4 trillion of the Trump plan's debt increase would come from extending and modifying the expiring TCJA tax cuts.¹⁰ Besides their expense, these tax cuts would be regressive. Similarly costly and regressive policies were adopted in 2001 and 2003, and again in 2017, with non-upper income taxpayers being convinced that they enjoyed far greater shares of the tax reductions than were actually the case (see, e.g., Bartels, 2005).

Will cuts to spending be large enough to offset or even exceed the cost of tax reductions? That will depend on how the party determines which spending cuts are politically acceptable. For decades, the party's budget leaders, from Pete Domenici and Bob Dole to Paul Ryan were more than willing to call for spending reductions in the major entitlements of Social Security and Medicare. With some minor exceptions, Trump has not been on board; nor did he invest much political capital in ACA repeal. However, he did support other spending cuts featured in Ryan's

⁹ These are the midpoints of wide ranges, given the plans' lack of specifics and other uncertainties.

¹⁰ The cost of overtime, tips, and Social Security tax breaks would be \$3.6 trillion, and be only partially offset by tariff revenues of \$2.7 trillion.

plans, particularly big reductions to means-tested entitlements, such as by block granting Medicaid and reducing nutrition assistance eligibility. Republicans also proposed big cuts to many discretionary programs, and particularly agency operating funding. Because the Democrats controlled the House in the last two years of Trump’s first term, these were negotiated down to minimal cuts. In 2024 CRFB estimated that the Trump campaign’s proposed spending increases for military, border control/immigrant deportation, housing, and health would about match savings from proposed savings from other policies, which includes CRFB’s estimate of \$100 billion from “fraud, waste, and abuse” reduction. Multiply that last amount by 20, and one arrives at the \$2 trillion in savings projected by Elon Musk and colleagues to be generated by a Department of Government Efficiency (DOGE). The “department” wouldn’t be part of government; rather, like the Reagan Administration’s Grace Commission, it would be run and staffed by business experts. The Grace Commission was a hubristic failure, as it was unwilling to master the policy and administrative details necessary to identify realistic savings (CBO/GAO, 1984). The same deficiency is already apparent in statements by the intended leaders of DOGE, as is a blithe disregard for conflicts of interest that are certain to be litigated by DOGE opponents. Even if these limitations were to be overcome, proposed savings would still face traditional political opposition from program beneficiaries, which legislators will ignore at great political peril. The realistic order of magnitude of spending reductions is far below the trillion dollar level.¹¹

And of course, a dense structure of statutes (including the Government Performance and Results Act) and organizations (OMB, GAO, Inspectors General, agency policy shops) already

¹¹ For an example of small government advocates using DOGE as a vehicle for their policy proposals, see Nowrasteh and Bourne, 2024. This CATO document does not collate any savings estimates.

effectively promote efficiency. As does CBO. Joyce correctly selects CBO as best outcome of the CBA, a result that was the product of tremendous leadership, hard work by an excellent staff, and an understanding across the aisle that an independent budget agency was an asset to Congress and all its members. CBO firmly sits within the economic/budgeting mainstream, but some GOP preferences regarding budget estimates for their policies do not. Regarding the practice of dynamic scoring, much research and deliberation appears to present a resolution of past differences (Elmendorf, Hubbard, and Williams, 2024). On the other hand, big disagreements could arise on issues such as immigration (which CBO believes has reduced deficits) and on tariffs. On these issues and probably others, CBO independence is vulnerable. In 2024, the House Budget Committee chair charged in a press release that “Unfortunately, the nonpartisan CBO has turned partisan for the purpose of bolstering President Biden six months before an election” (House Budget Committee Republicans, 2024). Ascribing that partisan motive was completely out of line, but it may be illustrative of how far Republicans will go.¹² It would at best be a pyrrhic win for them, since it would erase the credibility of what is now a congressional, and national, asset.

Using the guise of spending control, the Trump administration will also claim that the Impoundment Control Act is unconstitutional, and that the President has great leeway to decline spending part of an appropriation, and in some cases to spend none of it (Paoletta and Shapiro, 2024; for the opposing view, see Prince, 2024). Such assertions, when put into action on specific appropriations, will be litigated. The legal arguments are dense, drawing on various clauses in Article II, the Appropriations Clause in Article I, and important Supreme Court decisions; their

¹² For example, CBO could be directed to assume in its baseline the continuation of tax cuts that are legally scheduled to expire.

resolution depends very much on the Supreme Court's predilections. Given the current Court's willingness to reverse precedents, and the potential willingness of Republican legislators to place short-term partisan interests over long-term institutional interests, it is possible that congressional spending power will be weakened, reversing the intent of fifty years ago.¹³

THE DEFICIT CONTROL BOTTOM LINE

Despite high current deficits, given the centrality of tax cuts to Republicans, and in the absence of 1980s to 1990s-level concern about deficits, a plausible bet is that Republicans will not decrease deficits, and may increase them. Uncertainties include the ever-present national security, disaster, and macroeconomic ones, plus the political ones of whether Trump insists on his preferences and how stable they are in the first place, by how much will GOP legislators defer to him, and how unified they will be, particularly when their slim House majority again depends on swing districts. Accommodating concerns about spending cuts might cost additional revenue losses (e.g., expanding income tax deductibility of state and local income tax payments).

In an imaginary world where Democrats had gained unified control in the recent election, it would be hard to expect a very different outcome regarding deficit control. The party is less averse to taxes, but unwilling to pay a "tax" on its spending increase aspirations in order to promote deficit reduction when that outcome has little public support. In a somewhat more plausible imaginary world where the election produced a divided government, the absence of

¹³ While DOGE's acronym is based on a jocular name for a crypto coin and an internet meme about a dog, another meaning for the word Doge was the titular head of the Republic of Venice's oligarchic government. Those Doges were not granted unchecked executive power; far from it.

public concern about deficits and huge levels of distrust between the parties would also prevent a grand bargain.¹⁴

Stronger Budget Committees, if they recognized the responsibility inherent to the title, might counterbalance these inclinations. Joyce, observing that the status of membership on budget committees has diminished, favorably mentions a proposal once made by Senator Kassenbaum to repurpose each budget committee as a “Committee on National Priorities” (CNP), with membership drawn from the chairs and ranking members of other committees. While I am skeptical that leaders of other committees would have enough time to devote to a CNP, I would support the proposal if it was part of a broader reform of the committee structure and legislative process (e.g., the portfolio budgeting approach suggested by Redburn and Posner, 2015). Absent such reforms, replacing Budget in the committee’s title might further deemphasize concerns about growing deficits at a time when their risk has increased.¹⁵

THE FUTURE OF RECONCILIATION

As Joyce writes, reconciliation has been used to pass legislation that would not pass otherwise even under unified government because the Senate minority would block it by using the filibuster. He suggests four options for reconciliation’s future: purposeful elimination, continuation as is, restricting its use to deficit reduction, and making Social Security subject to it.

Had the 2024 election produced another divided government, a fifth option would be reconciliation withering away. Reconciliation requires prior budget resolutions, which would be

¹⁴ In 2018, a serious effort to improve the budget process by the Joint Select Committee on Budget and Appropriations Process Reform fell apart because of that distrust (Joyce and Meyers, 2018).

¹⁵ The fiscal policy-making capacity of Congress is already weak. The Humphrey-Hawkins Act is obsolete and ignored and the Joint Economic Committee is stagnant.

unlikely unless the parties learned to compromise. Now that we have a unified government, it is possible that reconciliation will be resuscitated, but it may not be. The latter will be the case if a Senate majority decides to eliminate the filibuster.

Senator McConnell stated that this will not happen, but he will no longer be majority leader. He also played an important role in how the filibuster has changed over recent decades, from a relatively infrequent exercise of “extended debate” and the somewhat more frequent threat to use that tactic, to a common understanding that any substantive legislation would need sixty votes to proceed to consideration and then again to pass. The majority leader files for cloture and then proceeds to other business (the so-called “two track system”), until it becomes politically advantageous to see if sixty aye votes are there. Not infrequently they are not, and the majority then blames the minority during the next election for legislative inaction.

That dynamic was partially changed in 2013 by Senate Democrats, who ruled that only a simple majority would be needed to confirm nominees to lower courts. In 2017 Senate Republicans expanded that rule to Supreme Court nominees--after refusing in 2016 to consider President Obama’s nomination of Merrick Garland to the highest court. Both rule changes were carried out through the “nuclear option,” a procedure that takes only a simple majority vote to change the rules of the Senate, which normally is expected to require a two-thirds majority. But “going nuclear” is clearly constitutional--the term “nuclear” is used by opponents of such changes to symbolize what they say is an undesirable deviation from a norm.

Requiring sixty votes to act on every major question was abnormal not very long ago, so it’s not surprising that Senate Democrats, out of frustration that many of the president’s qualified nominees were being blocked for partisan reasons, decided to return to previous practice. After

portraying that tactic as a partisan move by Democrats, Senator McConnell felt free to violate the norm of respecting the president's right to nominate, and in the following year to copy the Democrats' elimination of the filibuster, this time for Supreme Court nominations.

In other words, the filibuster is at risk of elimination when the majority feels that the immediate political benefits of doing so are large. Both parties decided that shifting the makeup of the judicial branch towards their preferences exceeded that threshold. It is not a large leap to think the same will soon be the case for substantive legislation.¹⁶

One barrier to the filibuster's elimination is the belief that Senate traditions make it the "greatest deliberative body in the world." That self-image, once a matter of faith among Senators, it is no longer widely believed by the public, and to many senators who express deep frustration with their diminished roles, it is ironically laughable. Nor is the metaphor of the Senate being the saucer that cools hot House tea normatively convincing, now that Senate representativeness has become so disproportionate to the U.S. population (and in favor of the Republican party).¹⁷

A stronger reason not to eliminate the filibuster is the calculation by the majority's Senators that they may soon be in the minority and would miss its use then. This tradeoff for a majority, between passing its most preferred policies now against the loss of being able to prevent its opposition from doing the same later, would be affected by reconciliation's Byrd Rule. Stringent enforcement of the rule prevents legislation that is not budgetary in intent, even

¹⁶ President-elect Trump's December 2024 call to eliminate the debt ceiling may be a revealing tell that he would prefer to deemphasize budgetary procedures when his party has unified control. This will test the Tea Party ideological roots of the Freedom Caucus members.

¹⁷ And even without the filibuster, the U.S. already has the highest number among democracies of constitutional "veto players" who possess the ability to prevent action.

if it has budgetary effects, from passing by a simple majority. If implementation of the Byrd rule were to be weakened, which could be accomplished by the majority having more influence over the parliamentarian, then eliminating the filibuster would be less likely.

Joyce describes three arguments made by opponents of a unified government's use of reconciliation, and in favor of ending the procedure (and keeping the filibuster). One is that requiring at least some assent by part of the minority to important legislation would provide an incentive for bipartisan policymaking. Another is that reconciliation over the last twenty five years has tended to increase rather than decrease the deficit. And a third is that swings from unified government under one party to unified government under the other party can lead to policy instability.

Some advocates combine the first two arguments to suggest that eliminating reconciliation and thus requiring bipartisanship will promote deficit reductions, as both parties can share the blame, if necessary. In the last quarter century, however, deficits have increased through both reconciliation and more traditional legislation, and with the cooperation of both parties. The CRFB analyzed most major legislation (mandatory and discretionary) since 2001 that led to increases in the ratio of public debt to gross domestic product, and found that 77% of the increases can be attributed to bipartisan legislation (CRFB, 2024). They defined bipartisan votes as those receiving support from at least 15% of voting members from both parties in one chamber, which is reasonably close to the number of minority party senators needed to invoke cloture in a closely divided Senate.¹⁸

¹⁸ See also Curry and Lee, 2019, on bipartisan actions by Congress.

It's also the case that many of the big policy changes adopted in reconciliation exclusively by one party were not subsequently reversed by the other party once it gained control. Besides the ACA case mentioned above, there's Part D from the Medicare Modernization Act, and many tax provisions that affect the lower four-fifths of the income distribution. Most of the instability in reconciliation-passed legislation was with tax provisions for corporations and upper-income individual taxpayers.

Bringing back the "Conrad rule," which would require sixty votes in the Senate to allow reconciliation bills to increase the deficit, would at best limit further deficit increases. Readopting this rule could send a signal that preferences had shifted toward deficit reduction, but no rule can force legislators to act when they don't want to. Similarly, eliminating the Byrd Rule prohibition against legislating for Social Security in reconciliation could make it easier to restore the program's financial sustainability, but it is unlikely that this rule change will be adopted until the majority of legislators feel that it is finally time to address this problem. At some point, though, that time will come, because the risk of touching the "third rail" will be outweighed by being blamed for inaction as benefit reductions loom.

THE ELEPHANTS IN THE ROOM WHERE IT HAPPENS

"The Room Where It Happens" from the musical *Hamilton* is a masterful song about political realism. Sung by the character Aaron Burr, who complains about bargains between Hamilton and his opponents Jefferson and Madison, it is about secret transactions between politically skilled elites. Those excluded from the room are left out of the deals.

Burr never attained the presidency; he tried to manipulate a design flaw in the original Electoral College to defeat Jefferson in 1800, the presidential candidate with whom Burr shared a ticket as vice presidential candidate. Later he conspired to carve out western territories to create a country separate from the United States; for this he was tried for treason but acquitted. He not only threatened violence on his enemy Hamilton; he actually killed him.

For the next two years, at the very least, only Republicans will be in the room. A Burr-like character, President Trump, is their leader.

In a 2020 book chapter on the first Trump term and the budget, I concluded that Trump took a destructively aberrant approach to federal budgeting (Meyers, 2021). Not only did Trump, like Cheney, believe that deficits didn't matter, he also believed the budget process didn't matter. He disregarded budgetary expertise, including from his own budget office. With his late presidency Schedule F proposal he sought to convert OMB's staffing from neutral brilliance to slavish loyalty (Moynihan, 2022). Implementation of this approach for all federal agencies is widely expected in 2025. The damage will be immense.

Some of Trump's voters have explained their support as based on the expectation that with a record as a successful businessman Trump should be able to manage government well. This is in reference to someone who labeled himself the "king of debt," and who showed himself to be financially untrustworthy, frequently stiffing suppliers, and declaring bankruptcy multiple times. Trump also cheated on his taxes. When in office he and his family gifted off their status, such as by overcharging the Secret Service, and exploited foreign policy connections to make investment deals. Trump also had an extraordinary proclivity for lying. This presents a serious risk for the budget process, which should be based on honest numbers and analysis.

Once out of office, Trump was indicted four times, and convicted as a felon for falsifying business records. Another indictment for illegally possessing classified documents was dismissed by a Trump-appointed judge on grounds that the special prosecutor was improperly appointed. A Georgia indictment for attempting to manipulate the 2020 election results in that state was delayed because of questions about the prosecutor's conduct. Another federal indictment for attempting to overturn the 2020 election was also delayed, this time by the Supreme Court's decision that presidents have immunity for official actions. The federal indictments were withdrawn before Trump took office because of Justice Department policy that sitting presidents should not be prosecuted. He will not be the first American president to avoid conviction after having fomented an insurrection. That was Jefferson Davis, President of the Confederate States of America. Trump also has promised to pardon those convicted for the January 6 insurrection, including those who attacked police.

Hours after that insurrection, eight republican senators and 139 republican representatives, including the current House Budget Committee chair, voted to sustain objections to the 2020 election results. Four years later, a majority of Republican voters still told pollsters that they believed Biden's election was rigged--a Trump big lie that was perpetuated by many Republican legislators. That much of the Republican party became so detached from the norms of legitimate democratic governance is a great tragedy. However, it was electorally advantageous, and Trump did win the election. But that legacy of norm rejection raises the very real possibility that his and his party's budget decisions will be viewed as illegitimate.

Returning to the metaphorical description of the CBA's 50th anniversary, the oldest word root of pyrite means "fire." Readers can supply their own interpretations.

ACKNOWLEDGEMENTS

Thanks to Phil Joyce for comments on a draft of this commentary. This article was accepted soon after former representative and House Budget Committee Chair John M. Spratt, Jr. died. He was one of the best among many people who have devoted themselves to making the congressional budget process work, worth remembering despite the negative appraisals in this article.

REFERENCES

- Aldrich, John H., and David W. Rohde, 2000. "The Consequences Of Party Organization In The House: The Role Of The Majority And Minority Parties In Conditional Party Government," in Jon R. Bond and Richard Fleisher, *Polarized Politics: Congress And The President In A Partisan Era*, Washington, D.C.: CQ Press, 31-72.
- AABPA/ABFM/NAPA, 2021. *Commemorating a Century of Public Budgeting and Financial Management*. <https://1921budgetact.com/>
- Bartels, Larry M., 2005. "Homer Gets a Tax Cut: Inequality and Public Policy in the American Mind," *Perspectives on Politics*, 3: March, 15-31.
- Committee for a Responsible Federal Budget, 2024. "From Riches to Rags: Causes of Fiscal Deterioration Since 2001," January 10.
- Committee for a Responsible Federal Budget, 2024. "The Fiscal Impact of the Harris and Trump Campaign Plans," October 28.
- Congressional Budget Office and General Accounting Office, 1984. *Analysis of the Grace Commission's Major Proposals for Cost Control*. February.
- Cox, Gary W., and Matthew D. McCubbins, 1993. *Legislative Leviathan: Party Government in the House*. Berkeley: University of California Press.
- CQ Magazine, 2016. "No Budget Resolution? No Problem Say House Conservatives," June 13.
- Curry, James M. and Frances E. Lee, 2019. "Non-Party Government: Bipartisan Lawmaking and Party Power in Congress," *Perspectives on Politics*, 17: 1, 47-65.

Elmendorf, Douglas, Glenn Hubbard, and Heidi Williams, 2024. "Dynamic Scoring: A Progress Report on Why, When, and How." *Brookings Papers on Economic Activity*, September 26-27.

Grand Bargain Committee, 2024. *Toward a Potential Grand Bargain for the Nation*. Bipartisan Policy Center, August 13.

House Budget Committee Republicans, 2024. "CBO Report on Inflation Covers Up the Harmful Effect of Bidenomics on the Economy," Press Release, May 14.

Joyce, Philip, 2025. The Congressional Budget and Impoundment Control Act at 50: A mid-life crisis," *Public Budgeting and Finance*, this issue.

Joyce, Philip G., and Roy T. Meyers, 2018. "The Problem and the Process Are Both Problems: Why the Joint Select Committee on Budget and Appropriations Process Reform Failed," working paper, <https://sites.google.com/umbc.edu/rtmjscbapr/home>.

Kane, Paul, 2024. "House Republicans often vote no on spending, but love to add pet projects," *The Washington Post*, March 2.

Meyers, Roy T., 2021. "Trump's Destructively Aberrant Approach To Federal Budgeting," in Paul Rutledge and Chapman Rackaway, eds., *The Unorthodox Presidency of Donald J. Trump*. Lawrence: University of Kansas Press, pp. 279-301.

Meyers, Roy T., 2014. "The Implosion of the Federal Budget Process: Triggers, Commissions, Cliffs, Sequesters, Debt Ceilings, and Shutdown," *Public Budgeting and Finance*, 34:4, Winter, 1-23.

Meyers, Roy T., 2009. "The "Ball of Confusion" in Federal Budgeting: A Shadow Agenda for Deliberative Budget Process Reform," *Public Administration Review*, 69:2, March/April, 211-223.

Meyers, Roy T., and Irene S. Rubin, 2011. The Executive Budget in the Federal Government: The First Century and Beyond, with Irene S. Rubin, *Public Administration Review*, 71:3, May, 334-34.

Moynihan, Donald P., 2022. "Public Management for Populists: Trump's Schedule F Executive Order and the Future of the Civil Service," *Public Administration Review*, 82: January, 174-178.

Nowrasteh, Alex, and Ryan Bourne, 2024. *Cato Institute Report to the Department of Government Efficiency (DOGE): How to Downsize and Reform the Federal Government*, Cato Institute, December 11.

- Paoletta, Mark, and Daniel Shapiro, 2024. "The President's Constitutional Power of Impoundment," Center for Renewing America, September 10.
- Pasachoff, Eloise, 2024. "Modernizing the Power of the Purse Statutes," *George Washington Law Review*, 92: April, 359-424.
- Penn Wharton Budget Model, 2023. "When Does Federal Debt Reach Unsustainable Levels?" October 6.
- Posner, Paul, 2011. "Will It Take A Crisis?" Paper Prepared for the Federal Budget Reform Initiative, The Pew Charitable Trusts, March.
- Posner, Paul and Matthew Sommerfeld, 2012. "The Politics of Fiscal Austerity: Implications for the United States," *Public Budgeting and Finance*, 32: September, 32-52.
- Redburn, Steve, and Paul Posner, 2015. "Portfolio Budgeting: How a New Approach to the Budget Could Yield Better Decisions," Brookings, September.
- Price, Zachary S., 2024. "The President Has No Constitutional Power of Impoundment," *Notice & Comment Blog from the Yale Journal on Regulation and ABA Section of Administrative Law & Regulatory Practice*, July 18.
- Reynolds, Molly E., and Philip A. Wallach, 2020. "Does the Executive Branch Control the Power of the Purse?," American Enterprise Institute, October.
- Ryan, Josh M. and Scott L. Minkoff, 2023. "Legislative Gridlock and Policymaking Through the Appropriations Process," *American Politics Research*, 51: 6, 805-822.
- Senate Budget Committee, 2022. *The Congressional Budget Process*. Senate Print 117-23.
- Wallner, James, 2021. "Earmarks Ban Will Not Fix A Congress That Habitually Ignores Its Own Rules," *Daily Caller*, May 20.
- Wolfensberger, Don, 2013. "Regular Order Is a Political Rorschach," *Roll Call*, May 7.