COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET

Gimmicks to Look Out For in a Spending Deal

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With Congress moving toward funding the government for the remainder of fiscal year 2018, pressure is mounting to increase discretionary spending. Specifically, policymakers are discussing lifting or spending above the existing sequester-level caps set as a result of the failure of the Joint Select Committee on Deficit Reduction (also known as the "Super Committee").

Discretionary caps are in place to limit policymakers from appropriating unlimited amounts of defense- and non-defense spending. These caps have helped reduce deficits in recent years – in part by constraining discretionary spending and in part by encouraging sequester relief agreements that offset higher caps with mandatory spending cuts and/or increased receipts.

Unfortunately, Congress has the power to circumvent discretionary caps using a variety of budget gimmicks. Some of those gimmicks include:

1. **Using the war spending (OCO) designation to backfill capped spending**
2. **Using the emergency designation for non-emergency spending**
3. **Offsetting real discretionary spending increases with phony changes in mandatory programs (CHIMPs)**
4. **Converting discretionary spending to mandatory**
5. **Shutting off budget enforcement**

Rather than using these gimmicks, the honest and responsible way to increase discretionary spending is to explicitly raise the caps and offset it with mandatory spending and/or revenue changes. In developing these offsets, policymakers must also avoid gimmicks, such as:

6. **Relying on timing shifts that don't save money over the long term**
7. **Using delayed or unsustainable offsets**
8. **Unreasonably backloading offsets**
9. **Counting war spending reductions as savings**
10. **Counting savings from extending discretionary spending caps**

Congress should avoid all of these gimmicks. Instead, they should increase discretionary caps to desired levels and fully offset the cost by reducing the projected cost of mandatory programs and increasing revenue. We proposed a number of potential bipartisan offsets in our Mini-Bargain.

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Gimmicks to Circumvent Discretionary Spending Caps

Appropriators should abide by whatever discretionary caps are in place, both in law and in spirit. They should avoid any gimmicks that would circumvent caps, including:

1. Using the war spending (OCO) designation to backfill capped spending

Overseas Contingency Operations (OCO) spending is specifically designated to pay for war activities, such as the current activity in Iraq and Afghanistan. Unlike most defense and non-defense discretionary spending, this category is "uncapped" and not subject to the budgetary restraints put in place by the Budget Control Act (BCA). Because there are no formal criteria for what can be designated as OCO funding, the lack of a cap on OCO creates an incentive for Congress and the President to include non-war spending under this banner to circumvent spending limits.

Indeed, in recent years policymakers have used the OCO designation to increase defense spending *and* to increase non-defense spending by shifting some State Department funding to OCO.

Rather than using the war spending account as a slush fund to backfill the base defense and non-defense budget, OCO should be restricted to actual war-related costs.

2. Using the emergency designation for non-emergency spending

As part of the annual appropriations process, policymakers can designate funds as not subject to discretionary spending caps to address things that are truly national emergencies – meaning they are urgent, necessary, and unforeseen. For example, when health emergencies like Zika and Ebola emerged, policymakers used the emergency designation for the unexpected funding to combat the diseases.

Unfortunately, in the past this designation has been abused to include important political, and perhaps national, priorities but things that are not urgent and/or unforeseen. The discretionary spending caps exist for a reason. Reasonably expected, but still important spending priorities should be offset by less important priorities, either by cutting other discretionary spending or by raising the discretionary caps and offsetting increases with mandatory spending reductions or revenue increases.

3. Offsetting real discretionary spending increases with phony changes in mandatory programs (CHIMPs)

Changes in Mandatory Spending Programs, or "CHIMPs," allow policymakers to reduce mandatory spending in an appropriations bill in order to finance an increase in discretionary spending. While there is theoretically nothing wrong with this practice, most CHIMPs are actually fake cuts in mandatory spending used to finance real increases in discretionary spending.

One way policymakers abuse CHIMPs is by rescinding mandatory budget authority that would not have actually been spent – sometimes called empty Budget Authority, or "empty BA" – resulting in no actual reduction in outlays.

A more egregious gimmick involves delaying mandatory spending from one fiscal year to the next and then taking credit for the "cut" in year one, ignoring the equal-sized cost in year two.

In both instances, the phony on-paper savings are then used to "offset" appropriations above the normal spending allocations, resulting in an increase in spending without any real offsets. These offsets happen in the appropriation bill but do not require raising the spending caps.

4. Converting discretionary spending to mandatory

Discretionary spending is determined on an annual basis in the regular appropriations process and is subject to the discretionary spending caps. Mandatory spending is authorized by law, does not necessarily need to be determined yearly, and is subject to fiscal restraint only through statutory pay-as-you-go (PAYGO) rules. By shifting discretionary programs to the mandatory side of the ledger, policymakers would remove money subject to the discretionary caps, thus freeing up room to spend more under those caps. Unless a conversion was coupled with an equal-sized reducing in discretionary spending caps, this shift would represent a clear gimmick to spend more within the discretionary spending caps. It would also push even more government spending to autopilot.

Converting discretionary spending to mandatory could be particularly egregious this year with intense pressure to wipe the PAYGO scorecard as a result of the very large deficit increase in the tax bill (see How PAYGO Rules Could Affect Tax Reform). As a result, the increase in spending would not be subject to any fiscal discipline or offsets unless policymakers rightfully insisted on them.

5. Shutting off budget enforcement

Under current law and rules, the discretionary spending caps are enforced with a point of order on the front end and an across-the-board sequester in each category of spending (both defense and non-defense) on the back end. The purpose of the sequester is both to enforce caps and to automatically reduce spending down to the caps if appropriators exceed that limit.

However, Congress could pass a law waiving the sequester enforcement, which would dramatically weaken discretionary spending caps. Indeed, if Congress turns off sequestration after violating the caps, it would represent a *de facto* increase in the cap. Opting to turn off or delay the punishment for cap violation is neither fiscally responsible nor honest. It would be a clear budget gimmick to avoid having to come up with offsets to pay discretionary cap relief.

Gimmicks To Avoid Paying For Sequester Relief

Increases in discretionary spending above sequester levels should come as a result of explicit increases in the spending caps ("sequester relief"). To avoid adding to the debt, any increases should be fully paid for with other savings over a reasonable period of time (see our Mini-Bargain for possible offsets). Congress should avoid using phony offsets and other gimmicks such as:

6. Relying on timing shifts that don't save money over the long term

Generally, legislation is scored over a ten-year budget window. While this usually allows a reasonable period of time to assess the fiscal implications of a policy, it also opens the door to abuse in the form of "timing gimmicks."

Specifically, policymakers can use the ten-year budget window to make certain policies look like they provide significant savings to offset cap relief, when in reality they produce little or no savings or even cost money. Some versions of this gimmick are more egregious than others. In some cases, policymakers may put forward a reasonable policy that simply has larger fiscal implications over time; in others, they may use a pure timing shift that saves money over ten years but loses as much or more over time, like pension smoothing.

In perhaps the most egregious case, policymakers can simply change the payment date of a benefit or a tax to shift costs to literally months after (or savings to literally months before) the end of the budget window. These timing shifts are blatant gimmicks that create savings on paper that are erased just after the budget window ends.

7. Using delayed or unsustainable offsets

One way to create space to offset new spending is to include unpopular offsets that do not take effect for several years. The lag between passage of a spending deal and implementation of offsets gives Congress plenty of time to cancel offsets should they prove unpopular. The most egregious version of this gimmick would be to enact provisions with the expectation and intent that Congress will repeal them before they take effect; even if policymakers today intend to allow an unpopular provision to take effect, delaying its enactment reduces the likelihood that it actually will.

Similarly, an offset could be designed to enact a cut slowly that eventually would become unpopular enough to repeal in the future. Beware legislation that offers "goodies" up front but only includes "vegetables" a number of years in the future.

8. Unreasonably backloading offsets

Even offsets that are reasonably expected to take effect (for example, those that extend existing policy) can be gimmicks if they occur late in the budget window. While it is reasonable to offset new costs over several years, a package where most offsets are many years in the future is likely to add more to the debt than a traditional budget score would suggest.

Even if the backloaded savings are realized, offsetting an immediate cost with savings in future years typically fails to account for the cost of additional federal borrowing. For example, a policy that that increases the deficit by $100 billion in 2018 and reduces the deficit by $100 billion in 2027 would be considered deficit neutral within the ten-year budget window; however, higher interest payments would accrue in the intervening years, leaving debt $28 billion higher than it otherwise would have been by 2027. Standard Congressional Budget Office (CBO) cost estimates do not include the effects of debt service costs.

9. Counting war spending reductions as savings

OCO is a category of uncapped spending used to finance the wars in Afghanistan, Iraq, and related activities. Since it is not capped, the CBO projections assume that OCO grows with inflation in future years despite the fact that war spending is supposed to be temporary.

When the timetable for drawing down the wars was initially formulated in the early years of the Obama Administration, it provided an opportunity for lawmakers to cap spending on a drawdown path and claim savings relative to CBO's projections to use as an offset for spending. However, the reduced spending wouldn't have represented real savings because it essentially reflected the Administration's existing policy rather than an actual reduction in war spending compared to the policy.

Although this gimmick has become less popular in recent years as lawmakers have used OCO more as a way to circumvent caps on other discretionary spending (as detailed above), it still remains as a way lawmakers could try to claim artificial savings. In addition, with recent increases in OCO spending, a proposed drawdown would have questionable credibility.

10. Counting savings from extending discretionary spending caps

The Budget Control Act's discretionary spending caps technically end after FY 2021. At that time, discretionary spending levels can be set yearly without any legal limits. However, CBO's baseline still projects FY 2022's base discretionary spending at 2021 levels adjusted for inflation per CBO conventions.

Congress *should* extend discretionary spending caps beyond 2021 to prevent limitless discretionary spending, but claiming savings from this extension will almost definitely be a gimmick.

In extending spending caps, policymakers would need to choose whether to set them at, above, or below current-law "sequester" levels. If set *above* sequester-levels, this cap extension would actually represent a *spending increase* relative to the CBO baseline. In the past, some plans (including President Obama's budgets) tried to claim this extension as savings since it was below pre-sequester levels, but this is the wrong way to view the policy. Policymakers should not count spending increases as if they are reductions simply because the increases could have been worse.

Technically, setting future discretionary caps below sequester levels would represent savings. However, such offsets would not be credible since there is no reason to think that future appropriators could spend far below sequester levels at the same time current appropriators are spending far above sequester levels.

Conclusion

At a time when debt as a share of the economy is at its highest since the World War II-era, budget gimmicks erode the integrity of the already regularly-dismissed budget process. If policymakers think the current limitations on discretionary spending are too low, there are billions of available mandatory spending and/or tax expenditures to be drawn from as offsets.