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Busting the Budget: How Congress Spends Over and Around the Budget Control Act

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Summary

As Congress nears another deadline this Friday for funding the government, a lot is on the table in terms of what could be included in a deal to increase spending across the board. Whether Congress is forced into a partial government shutdown or it chooses to bunt the issue another few weeks or so with the fourth continuing resolution of this fiscal year, the spending issue will have to be addressed in the near future.

Much of this is contingent on the amount by which Congress agrees to bust the spending caps set by the Budget Control Act. Passed in 2011, the Budget Control Act (BCA) was a compromise passed by a Republican-controlled House and Democrat-controlled Senate, signed by Democratic then-President Barack Obama.

Forced by heavy Republican pressure to fight against another debt limit increase absent any real spending restraints, the BCA was one of the largest victory of Republicans in Congress pertaining to fiscal issues, alongside last month's passage of tax reform.

The BCA put caps on discretionary spending to drastically slow the growth rate of federal spending, and if adhered to, would represent meaningful reform. However, the BCA is unfortunately continually undermined by the legislative body that designed it, by "busting" the spending caps every year, as well as by using budget "gimmicks" to increase off-budget spending and falsify numbers to create illusions of savings within the budget.

What will be the fourth spending deal to bust the BCA spending caps is rumored to be the largest deal yet, potentially busting the discretionary caps by more than $200 billion over two years. This deal is nearly three and four times larger than the budget caps deals struck in 2015 and 2013, respectively. Combined with potential additional riders onto this deal, the new spending could total over $300 billion.

Reckless spending has become a trend of Congress, with defense hawks advocating for more defense spending, and Democrats demanding parity for non-defense spending. A larger problem, however, lies in the portion of the budget that the BCA caps almost entirely do not touch: mandatory spending.

Outlined in this month's issue brief, FreedomWorks explores the history behind as well as the process and effects of the Budget Control Act, where its strengths and weaknesses lie, and what might be learned from it and other approaches to implement truly effective spending controls to hold Congress fiscally responsible when spending taxpayer money.

GOP: Grand Old Profligacy

When Republicans regained control of the House of Representatives in the 2010 midterm election, there was renewed hope that an era of divided government would begin to rein in federal spending in the wake of the Wall Street bailout and the stimulus package. In addition to the worst economic downturn since the Great Depression, these two measures contributed to budget deficits of $1.412 trillion in 2009 and $1.294 trillion in 2010.[1]

The spending explosion did not begin in January 2009, when President Barack Obama took office and Democrats began the 111th Congress with large majorities in the House and Senate. Congressional Republicans may have produced balanced budgets between 1998 and 2001, but the groundwork was laid during these years for profligate spending.

Stephen Slivinski, the author of a book on Republicans' deviation from fiscal conservatism,[2] noted that then-Speaker Newt Gingrich (R-Ga.) abandoned the "Contract with America,"[3] the platform on which Republicans took control of Congress in the 1994 midterm election.[4]

> The 1997 budget deal that Gingrich helped craft was replete with retreats on budget discipline. The spending caps that were in place in the Contract with America budget were abandoned: the 1997 budget ended up hiking overall discretionary spending by 11.5%. The GOP talking points on the budget compromise reminded reporters that the agreement gave Clinton less than he'd asked for. That's certainly true. But Republicans voluntarily gave up more of their own territory than Clinton did and much of it was encouraged by Gingrich.

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[1] Congressional Budget Office, Historical Budget Data https://www.cbo.gov/about/products/budget-economic-data#2
[2] Stephen Slivinski, *Buck Wild: How Republicans Broke the Bank And Became the Party of Big Government*, Thomas Nelson, Inc., July 18, 2016
[3] Stephen Slivinski, "How Speaker Newt Gingrich Betrayed the Republican Revolution," United Liberty, December 14, 2011 http://www.unitedliberty.org/articles/9188-how-speaker-newt-gingrich-betrayed-the-republican-revolution
[4] "Republican Contract with America," Retrieved November 29, 2017 http://media.mcclatchydc.com/static/pdf/1994-contract-with-america.pdf

> Then came the highway bill in 1998. It, too, was a bloated and very expensive venture that highlighted the disconnect between the rhetoric of budget cutting and the reality of what was being pushed. When budget committee chairman John Kasich urged Gingrich to help him persuade members of the Congress to shave off some of the spending, Gingrich shut him down. The bill passed, as these things often do, largely as a result of the hundreds of earmarks stuffed into the bill.
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> The final straw for many was the 1998 budget. When Kasich presented a budget that harkened back to the Contract with America days and included real budget cuts, Gingrich lambasted the budget-cutters in a closed-door meeting. Gingrich's pushback against fiscal conservatives was a prelude to Congress, a few weeks before the midterm elections of 1998, passing a budget that hiked non-defense discretionary spending by over 5% that year – twice the 1997 budget deal's increase – and funded a record amount of pork-barrel projects. It was in every way a rout of the very ideals that won the GOP a majority in Congress in the first place. When presented with an option by then-Rep. Tom Coburn of Oklahoma and a number of other conservatives in the House to offset some of these hikes with spending cuts in other parts of the budget, Gingrich nixed the idea outright.

Writing after Gingrich exited Congress, Ed Crane explained, "[T]he combined budgets of the 95 major programs that the Contract with America promised to eliminate have increased by 13 percent."[5] In short, government continued to grow even when it was declared that "the era of big government [was] over."

For example, congressional Republicans used the Balanced Budget Act of 1997[6] to create the State Children's Health Insurance Program (S-CHIP), which had the effect of crowding out private health insurance.[7] Separately, once a key Republican policy goal, the elimination of the Department of Education was essentially put to rest with the passage of the No Child Left Behind Act,[8] a massive expansion of the federal government's role in education.

Another example is the creation of the Medicare prescription drug benefit,[9] known as Medicare Part D. The Bush administration actively lobbied for passage of the bill, sending Vice President Dick Cheney to the House of Representatives to sway on-the-fence members into the "yea" column. President Bush's top political advisor, Karl Rove, "convinced, cajoled, and browbeat congressional Republicans into creating Medicare

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[5] Ed Crane, "On My Mind: GOP Pussycats," Cato Institute, November 13, 2000 https://www.cato.org/publications/commentary/mind-gop-pussycats
[6] H.R. 2015, 105th Congress (1997) https://www.congress.gov/bill/105th-congress/house-bill/2015
[7] Michael F. Cannon, *Sinking SCHIP: A First Step toward Stopping the Growth of Government Health Programs*, Cato Institute, September 13, 2007 https://object.cato.org/sites/cato.org/files/pubs/pdf/bp99.pdf
[8] H.R. 1, 107th Congress (2001) https://www.congress.gov/bill/107th-congress/house-bill/1
[9] H.R. 1, 108th Congress (2003) https://www.congress.gov/bill/108th-congress/house-bill/1

Part D."[10] Former Speaker Gingrich also lobbied for the new entitlement, giving "a pivotal speech [for Medicare Part D] that turned some conservative skeptics into believers."[11]

Medicare is a fiscal disaster, and the prescription drug benefit only added to the insolvency of the overall program. According to the Congressional Research Service, Medicare Part D alone faces $8.7 trillion in unfunded obligations.[12]

Some defend the spending record of Republicans during President George W. Bush's eight years in office by invoking the September 11 terrorist attacks and wars in Afghanistan and Iraq, where an American military presence continues to this day. However, non-defense spending also increased at an alarming pace.[13]

The Budget Control Act

A prominent theme during the 2011 debate for spending limitations was "cut, cap, and balance." The Cut, Cap and Balance Act,[14] introduced by Rep. Jason Chaffetz (R-Utah), would have cut discretionary spending, capped all federal outlays as a percentage of gross domestic product (GDP), and required a substantive balanced budget amendment be submitted to the states for ratification.

Conservatives rallied behind the Cut, Cap and Balance Act. The bill passed the House,[15] but it was tabled in the Senate.[16] Some themes of the Cut, Cap and Balance Act -- spending caps and a vote on a balanced budget amendment -- were incorporated into a future debt limit deal: the Budget Control Act (BCA).

Realizing that House Republicans wouldn't sign off on a clean debt limit increase, Speaker John Boehner (R-Ohio) negotiated an agreement, the Budget Control Act,[17] with President Barack Obama and Senate Majority Leader Harry Reid (D-Nev.) to increase debt limit by $400 billion, followed by automatic increase of $500 billion that would could only be negated if Congress passed a resolution of disapproval.

In exchange for the initial debt limit increase, the White House suggested a bipartisan commission to develop at least $1.5 trillion in deficit reduction over the corresponding ten-year budget window. If the commission failed to produce such recommendations, an

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[10] Michael F. Cannon, "In Creating Medicare Part D, Republicans Slit Their Own Throats," Cato Institute, September 23, 2017 https://www.cato.org/blog/creating-medicare-part-d-republicans-slit-their-own-throats
[11] Katrina Trinko, "How Gingrich Helped Medicare Part D Get Passed," National Review, December 13, 2011 http://www.nationalreview.com/corner/285620
[12] Patricia A. Davis, *Medicare Financial Status: In Brief*, Congressional Research Service, August 9, 2017 https://fas.org/sgp/crs/misc/R43122.pdf
[13] Veronique de Rugy, *Spending Under President George W. Bush*, Mercatus Center, March 2009 https://www.mercatus.org/system/files/WP0904_GAP_Spending-Under-President-George-W-Bush_v2.pdf
[14] H.R. 2560, 112th Congress (2011) https://www.congress.gov/bill/112th-congress/house-bill/2560
[15] Roll Call Vote 606, 112th Congress http://clerk.house.gov/evs/2011/roll606.xml
[16] Roll Call Vote 116, 112th Congress https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=1&vote=00116
[17] The Office of Rep. Marsha Blackburn, "Budget Control Act Summary and Timetable," Retrieved August 11, 2017 Realizing that House Republicans wouldn't sign off on a clean debt limit increase

automatic sequestration of $1.2 trillion, divided equally between defense and nondefense spending, would apply. Another debt limit increase, equal to the amount of the sequester, would apply unless Congress disapproved.

In the event that the recommendations of the commission were not enacted by Congress, the BCA established spending caps for discretionary and non-exempt spending between FY 2012 and FY 2021 to promote fiscal responsibility.[18] Such a bill was not enacted, and thus the sequester was triggered. The sequester included both discretionary and non-extempt mandatory spending, initially through FY 2021. These dates would change with later legislation.

Aside from the immediate $900 billion debt limit increase upon passage of the BCA, the law was a dollar-for-dollar spending cut to match the $1.2 trillion debt limit increase. This became known as the "Boehner rule." The BCA was not an ideal approach toward spending, but it was a much better option than letting spending grow unchecked. Moreover, it was quite possibly the biggest victory for limited government since Republicans took control of the House in January 2011.

It is important to note that the BCA did not actually "cut" spending. Rather, as Veronique de Rugy noted, the BCA reduced the rates of spending increases.[19]

> With sequestration, defense increases 15% (vs. 23%); nondefense discretionary increases 6% (vs. 12%); Medicare increases 62% (vs. 74%); and net interest increases 160% (vs. 179%).
>
> While the sequester projections are nominal spending increases, most budget plans count them as cuts. Referring to decreases in the rate of growth of spending as "cuts" influences public perceptions about the budget. When the public hears "cut," it thinks that spending has been significantly reduced below current levels, not that spending has increased. Thus, calling a reduced growth rate of projected spending a "cut" leads to confusion, a growing deficit, and an ever-larger burden for future generations.

With the rapidly-increasing spending rates seen in the past few decades, however, even slowing the rate of spending was a meaningful reform, and as such, the passage of the Budget Control Act is often regarded as one of Republicans' largest successes of the past ten years.

Statutory Changes to the BCA

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[18] Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan, *The Budget Control Act of 2011*, Congressional Research Service, August 19, 2011 https://fas.org/sgp/crs/misc/R41965.pdf

[19] Veronique de Rugy, Federal Spending Without & With Sequester Cuts, Mercatus Center, November 7, 2017 https://www.mercatus.org/publication/federal-spending-without-sequester-cuts

Unfortunately, the spending caps in the BCA have already been undermined on three separate occasions prior to the beginning of the 115th Congress, and are in fact poised to be undermined yet again.[20] As legislation to amend the BCA must pass through the regular legislative process, requiring sixty votes in the Senate to invoke cloture, these undermining changes that have "busted" the initial BCA spending caps each year have been bipartisan deals.

The first deal altered the implementation of the triggered sequester on the very day that the sequester was set to start.[21] The American Taxpayer Relief Act (ATRA) of 2012 most notably postponed the start of the FY 2013 sequester to March 3 from January 2, and reduced the amount of spending reductions by $24 billion.

The $1.2 trillion sequester, which was triggered by Congress' failure to enact legislation to reduce the deficit by at least $1.2 trillion over FY 2012 to FY 2021, went into effect on March 3, 2013. Following the across-the-board cuts made by the sequester, Congress passed yet another bipartisan deal allowing for spending above the new caps -- the Bipartisan Budget Act of 2013 (BBA 2013), also known as Ryan-Murray, or pejoratively as the "Republican Surrender Act" -- in December.

The BBA 2013 increased discretionary spending limits for FY 2014 and FY 2015, allowing a $45 billion increase in FY 2014 and an $18 billion increase in FY 2015 for both defense and nondefense spending, split equally between the two.[22] While increasing spending in the immediately following years, the BBA 2013, together with subsequent legislation passed two months afterwards, extended the sequester to later fiscal years.[23]

These bills extended the discretionary spending sequester as well as the nonexempt mandatory spending sequester both initially set through FY 2021 to FY 2024 and FY 2023, respectively. This began what would become a trend of "spend now, save later," an undesirable solution to the budgeting issue, that only temporarily puts a band-aid on a much larger, unaddressed issue.

Another Bipartisan Budget Act was enacted in November 2015 that made further similar changes to the BCA caps. BBA 2015 increased discretionary spending limits for FY 2016 and FY 2017 by $50 billion and $30 billion respectively, and again extended the discretionary and mandatory sequesters, this time through FY 2025.[24]

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[20] Alicia Parlapiano, "How Congress Has Worked to Avoid the 'Sequester' Spending Caps," The New York Times, October 29, 2015 https://www.nytimes.com/interactive/2015/10/29/us/politics/how-congress-has-worked-to-avoid-the-sequester-spending-caps.html
[21] H.R. 8, 112th Congress (2012) https://www.congress.gov/bill/112th-congress/house-bill/8
[22] United States Budget Committee, "Section-By-Section Analysis Of The Ryan-Murray Spending Agreement," https://www.budget.senate.gov/imo/media/doc/Section-By-Section%20Analysis%20Of%20The%20Ryan-Murray%20Spending%20Agreement.pdf
[23] S.82, 113th Congress (2013) https://www.congress.gov/bill/113th-congress/senate-bill/25?r=20
[24] "Bipartisan Budget Act of 2015 Section-by-Section Summary," http://docs.house.gov/meetings/RU/RU00/CPRT-114-RU00-D001.pdf

Discretionary Spending Levels Since 2011 (in billions of nominal dollars)											
Bill		**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Budget Control Act of 2011	**Defense**	$555	$492	$501	$511	$522	$535	$548	$561	$575	$589
	Non-Def.	$507	$501	$510	$520	$530	$541	$553	$556	$578	$590
	TOTAL	**$1,062**	**$993**	**$1,011**	**$1,031**	**$1,052**	**$1,076**	**$1,101**	**$1,117**	**$1,153**	**$1,179**
American Taxpayer Relief Act of 2012	**Defense**	$555	$518	$497	$511	$522	$535	$548	$561	$575	$589
	Non-Def.	$507	$484	$469	$483	$494	$505	$518	$532	$545	$558
	TOTAL	**$1,062**	**$1,002**	**$966**	**$944**	**$1,016**	**$1,040**	**$1,066**	**$1,093**	**$1,120**	**$1,147**
Bipartisan Budget Act of 2013	**Defense**	$555	$518	$520	$521	$523	$536	$549	$562	$576	$590
	Non-Def.	$507	$484	$492	$492	$493	$504	$516	$530	$543	$556
	TOTAL	**$1,062**	**$1,002**	**$1,012**	**$1,013**	**$1,016**	**$1,040**	**$1,065**	**$1,092**	**$1,119**	**$1,146**
Bipartisan Budget Act of 2015	**Defense**	$555	$518	$520	$521	$548	$551	$549	$562	$576	$590
	Non-Def.	$507	$484	$492	$492	$518	$519	$516	$530	$543	$555
	TOTAL	**$1,062**	**$1,002**	**$1,012**	**$1,013**	**$1,066**	**$1,070**	**$1,065**	**$1,092**	**$1,119**	**$1,145**

Source: Congressional Research Service[25]

Each deal outlined above increased discretionary spending levels for the one or two fiscal years following its passage. BBA 2015, therefore, only adjusted spending levels for FY 2016 and FY 2017, explaining why there is essentially no change in the above chart for projected spending levels in the years following.

Where Things Stand Today

Just over two years since BBA 2015 became law, we find ourselves having the same discussions once again. Since BBA 2015 carries only through FY 2017, and FY 2018 is well underway, Congress will have to pass another budget deal to bust the caps once again without triggering the sequester. This deal was anticipated be made last month, as part of the end-of-the-year spending package, but this was not the case.

[25] Grant A. Driessen and Megan S. Lynch, *The Budget Control Act: Frequently Asked Questions*, Congressional Research Service, September 1, 2017 https://fas.org/sgp/crs/misc/R44874.pdf

As such, the deal will have to occur some time in the beginning of this calendar year. The Treasury is currently using "extraordinary measures" to borrow, and these measures will be exhausted by late March, according to the CBO, forcing action if the government is to continue borrowing and add more to the debt.[26] However, this time, equipped with Republicans controlling both houses of Congress and the presidency, the position fiscal conservatives are in should theoretically be more advantageous than two, four, and six years ago.

Despite this ostensible advantage, the debt problem has gone nowhere. In September, Congress passed legislation[27] that authorized emergency supplemental funding for areas impacted by recent natural disasters. Division C of the legislation authorized a temporary suspension of the debt limit through December 8, 2017.

No dollar amount was specified in the text of Division C, although restrictions were included that limited the extent to which the Department of the Treasury could borrow to meet obligations. Since H.R. 601 was signed into law by President Trump on September 8,[28] the share of the national debt held by the public has grown by more than $245 billion.[29]

Another short-term deal, H.J.Res. 123,[30] was agreed to on December 8 to fund the government through December 22. On the verge of this new deadline, yet another short-term spending bill[31] was passed to avoid a government shutdown. Along with these stop-gap measures, Congress is also considering, with the House already passing, additional government disaster funding for $81 billion on top of the September emergency supplemental funding.

These spending patterns are unacceptable, but it seems that fiscally conservative legislators are hesitant to fully speak out on the issue. Ironically enough, though, Democrats have chosen these past few months to speak out against the estimated deficit increase of $1.5 trillion by static scoring measures over ten years, allotted for by the budget reconciliation instructions to pass a tax reform bill. The bill, H.R. 1,[32] passed anyway and was signed into law on Dec. 22.

The Democrats' bluff on the issue is clear, though. If they truly cared about the deficit, they should take aim at their own entitlement and welfare programs that consume the

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[26] Congressional Budget Office, "Federal Debt and the Statutory Limit," November 2017 https://www.cbo.gov/publication/53336
[27] H.R. 601, 115th Congress (2017) https://www.congress.gov/bill/115th-congress/house-bill/601
[28] Public Law No: 115-56
[29] As of December 28, 2017 https://treasurydirect.gov/NP/debt/search?startMonth=09&startDay=08&startYear=2017&endMonth=01&endDay=02&endYear=2018
[30] H.J.Res. 123, 115th Congress (2017) https://www.congress.gov/bill/115th-congress/house-joint-resolution/123
[31] H.R. 1370, 115th Congress (2017) https://www.congress.gov/bill/115th-congress/house-bill/1370
[32] H.R. 1, 115th Congress (2017) https://www.congress.gov/bill/115th-congress/house-bill/1

vast majority of federal dollars each year.[33] These programs are much more historically significant contributors to the debt, and now comprise a majority of federal spending every year. A different discussion to be had, though, is how fiscal conservatives respond to these concerns from the left.

It is true that the federal government has a spending problem, not a revenue problem. The offsets, or "pay-for"s advocated by fiscal conservatives for increased spending measures are largely not called for for tax cuts that do decrease revenue, because of the recognition that the bigger problem is in fact spending.

To prevent government shutdowns from happening by employing short-term resolutions does not address the true problem, however, and are unsustainable as solutions in the long run, as the issue cannot be put off forever. For fiscal conservatives in Congress and outside of Congress who truly care about addressing the debt problem, solutions must be creative and effective. Some solutions fitting this mold have been floated in the past, and are valuable in finding a permanent answer.

Shortcomings of the Budget Control Act

The Budget Control Act represents an attempt to tackle the debt crisis and economic lag we have been faced with due to out-of-control federal spending. In the past ten years, the national debt held by the public has nearly tripled, from $4.94 trillion in June 2007 to $14.37 trillion in June 2017.[34] Growing public debt, due to overspending, depresses economic growth, which we have seen play out in this ten-year period.

Gross domestic product (GDP) growth between 2007 and 2016 averaged only 1.38 percent annually. Excluding the recession years of 2008 and 2009, which saw negative growth, this number is still only 2.10 percent. In the ten years prior to 2007, GDP growth averaged 3.32 percent annually.

A study[35] done by Reinhart, Reinhart, and Rogoff in 2012 concluded, through analysis of economic data for 22 countries over 110 years, that no public debt overhang creates growth of 3.5 percent annually. This drops to 2.3 percent when the public debt is at 90 percent of the GDP, and shrinks further to 1.2 percent when the public debt is at 120 percent of GDP. As of June 2017, the total public debt in the United States is 103.1 percent of GDP,[36] with the national debt held by the public alone at 75.7 percent of GDP.[37]

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[33] Congressional Budget Office, "The Federal Budget in 2016: An Infographic," February 2017 https://www.cbo.gov/publication/52408
[34] Federal Reserve Bank of St. Louis, "Federal Debt Held by the Public," https://fred.stlouisfed.org/series/FYGFDPUN
[35] Carmen M. Reinhart, Vincent R. Reinhart, and Kenneth S. Rogof, "Public Debt Overhangs: Advanced Economy Episodes Since 1800," Journal of Economic Perspectives 26 no. 3, Summer 2012 http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.26.3.69
[36] Federal Reserve Bank of St. Louis, "Federal Debt: Total Public Debt as Percent of Gross Domestic Product" https://fred.stlouisfed.org/series/GFDEGDQ188S
[37] Federal Reserve Bank of St. Louis "Federal Debt Held by the Public as Percent of Gross Domestic Product" https://fred.stlouisfed.org/series/FYGFGDQ188S

Should these trends of rising debt due to overspending continue, the United States will continue facing even slower economic growth than recent years. CBO says that "by 2027, debt held by the public is projected to total 91 percent of GDP."[38] This projection puts the United States right on track to continuing to shrink its annual GDP growth numbers, which is clearly problematic.

The solution is to stop overspending. None of this is new, but yet almost none of this has been truly addressed, despite the successes of the Budget Control Act in slowing the growth of federal spending. However, Congress frequently utilizes other means of spending, usually off-budget and entirely unbeknownst to many, to spend above what is fiscally responsible. These are known as budget gimmicks.

Budget Gimmicks

Congress has actively taken measures to circumvent spending caps, but they also raise off-budget spending as a means of spending above the BCA caps without breaking existing law. These gimmicks, which aren't tracked in the budget, allow Congress to spend more in areas they choose, without offsets or cap limitations.

The most immediate way that Congress circumvents spending cap limitations is not an off-budget gimmick. It is through "busting" the caps deals set by the BCA. This has been done three times in the past, through the American Taxpayer Relief Act, and the Bipartisan Budget Acts of 2013 and 2015, as discussed earlier.

Congress is poised to do so again, to make a deal for FY 2018 and 2019, because the most recent BBA 2015 only carries through FY 2017. A CQ Roll Call report indicates that this deal could bust the BCA discretionary caps by at least $91 billion for each FY 2018 and FY 2019, and further reports from this source put this number as high as $115 billion for each year.[39] This two-year deal would bust the caps by nearly three times the dollar amount that BBA 2015 did, and nearly four times that of BBA 2013.

Such a deal has disastrous implications, especially when coupled with some of the most common budget gimmicks used by Congress to further circumvent BCA budget caps. Five of the most commonly used budget gimmicks -- disaster spending, overseas contingency operations, changes in mandatory programs, timing shifts, and pension smoothing -- are outlined here.

While blatantly spending over the designated caps through busting the caps or using budget gimmicks for it -- designating disaster funds, or increasing the OCO budget -- is irresponsible, masking spending through CHIMPs, timing shifts, and pension smoothing

[38] Congressional Budget Office, "An Update to the Budget and Economic Outlook," June 2017 https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52801-june2017outlook.pdf
[39] Congressional Quarterly Roll Call, http://plus.cq.com/doc/news-5218168?0

adds a dimension of misinformation and dishonesty in federal spending. Shifting funds around to hide the current budgetary effects of increased or changed spending on the premise of addressing it outside of the current year or the ten-year budget window is misleading and dishonest spending.

All of these gimmicks are a large part of the problem that Congress has created for itself in "spend now, save later," because the latter never happens. An overview of how these five extremely common budget gimmicks work in practice follows below.

Disaster Spending: This is an immediate budget gimmick that comes to mind in light of 2017, a year of multiple category five hurricanes and massive wildfires. The disaster aid package currently in the works for 2017 aid is astronomical, at $81 billion.[40] This is the largest single funding request of its kind in U.S. history and includes little accountability for effective use of the funds. Even so, it is receiving hardly any true pushback, passing the House the week before Christmas by a vote of 251-169.[41]

Extremely problematic with disaster spending is the frequent lack of offsets to the cost of the relief package. This most recent package, for example, includes no offsets at all, only requiring a provision to exempt the budgetary effects of the bill -- that is, the new $81 billion added to the debt -- from pay-as-you-go provisions.

Overseas Contingency Operations: Also known as OCO, the overseas contingency operations fund is a separate fund for defense intended to be used for the Department of Defense to pay for unplanned military operations. A contingency operation is defined[42] as "an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services."

Although designed to allow for unplanned operations, it has developed into something of a slush fund for the military to garner additional funding outside of that allotted in the defense budget. The use of OCO funds on a large scale began after 9/11. In 2001 and 2002, funds appropriated for OCO totaled to $31 billion. Since 2002, funds appropriated for OCO total $1.674 trillion, an average of $111.6 billion per year.[43]

Therefore, defense hawks are able to negotiate upwards on funding for the military by first agreeing to a cap-busting deal to increase the caps in the first instance, then spending above them further through the use and abuse of OCO funding.

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[40] H.R. 4667, 115th Congress (2017) https://www.congress.gov/bill/115th-congress/house-bill/4667
[41] Office of the Clerk: U.S. House of Representatives, "Final Vote Results for Roll Call 709," December 21, 2017 http://clerk.house.gov/evs/2017/roll709.xml
[42] Cornell Law School, "10 U.S. Code § 101 - Definitions" https://www.law.cornell.edu/uscode/text/10/101
[43] Federation of American Scientists, "Department of Defense Cost of War," June 2017 https://fas.org/man/eprint/cow/201706.pdf

Changes in Mandatory Programs: Changes in mandatory programs, or CHIMPs, are another means by which Congress is able to spend above the BCA caps without compromising the law. CHIMPs are exactly what they sound like -- alterations made to mandatory spending to create “savings” in order to allow for increased discretionary spending.

If these “savings” were legitimate, this would not be such a bad deal. Ideally, if alterations could be made to mandatory spending to create real savings, the resulting savings would be put toward repaying the debt. However, this is often not even able to be the case, as the changes in mandatory programs are usually falsified themselves. They work by shifting some mandatory spending from the current year into a subsequent year, and therefore producing ultimately no or very little true change in outlays.

Moving forward, ensuring that savings created in the mandatory spending area in order to increase discretionary spending are real decreases in outlays should be a priority of fiscal conservatives inside and outside of Congress.

Timing Shifts: Not unlike CHIMPs, timing shifts create ostensible budgetary savings in order to increase spending in the current year. The government largely operates on ten-year budget windows, and by shifting revenues or outlays either into our out of these windows, Congress can produce the illusion of pay-fors or budgetary savings without actually doing so.

This is perhaps the easiest to understand, and most obvious budget gimmick. For an individual who budgets on an annual basis, for example, to change his or her budget habits by simply imagining that he or she will be able to find the savings or additional revenue in a later year to placate additional spending in the current year makes no sense and would be regarded as irresponsible, especially if he or she hasn’t a clue where those savings or revenue would come from. This is, however, precisely what Congress does with timing shifts.

Pension Smoothing: Another budget gimmick used to falsify budget numbers is pension smoothing, which increases revenue in the immediate year or years at the expense of revenue in later years. This involves allowing companies to delay payments of mandatory pensions to employees for a certain number of years. Because pension payments are tax-deductible, the revenues from these companies’ tax bills increases in the years for which the payments may be delayed.

In the later years when pensions must eventually be paid, however, this revenue difference is ultimately entirely awash, because these companies’ tax bills will be lower in the years when they do pay out the pensions. Therefore, no additional revenues are actually produced in the long run, they are simply increased temporarily at the expense of a decrease in later years.

Tackling Mandatory Spending

What, then, must be done to truly address the spending problem in the United States, when Congress is so keen on spending over the limits they have already set for themselves? To get here, fiscal conservatives must start with the tools they have, the most prominent of which is the Budget Control Act, the centerpiece of this paper.

The Budget Control Act has undoubtedly been the most effective tool conservatives have to force continued discussions about the state of spending in the U.S., but it is limited in its scope. This can be seen in Congress' ability to bust the caps, and to spend around its limitations with the aforementioned gimmicks.

Moving forward, though, discussions cannot be allowed to fall along the lines of those on the debt limit, echoing the line, "Why do we even have this if we never follow it?" Discussions must be focused not on scrapping the BCA, but improving upon it.

As statutory changes must go through the legislative process, political battles are sure to be fought in getting any true reform measure entirely through Congress. Difficult in surpassing is the Democrats' seemingly limitless defense of every penny and more in welfare programs and Medicare/Social Security included in mandatory spending, as well as the Republican defense hawks' defense of the same in military spending.

Along these lines, defense hawk criticism of the Budget Control Act is that its sequestration cuts disproportionately affect the military, while entitlement programs covered in mandatory spending are largely exempted from its cuts.

More broadly, though, conservatives, defense hawks, and otherwise, are right in their understanding that cuts to discretionary spending are a half-measure. There is considerable waste in discretionary spending, military spending included, and sequester cuts to it are necessary if Congress cannot identify this waste on its own.

However, mandatory spending, which represents nearly 65 percent of federal outlays over the next ten years, is where even more problems lie, and where our unsustainable spending continues to grow from. Mandatory spending totals nearly three times more than discretionary spending, which is expected to comprise only roughly 25 percent of federal spending in FY 2018 through FY 2027, according to the Congressional Budget Office (CBO).[44]

Even while discretionary spending will, according to CBO, decrease from roughly 6.3 percent of GDP in 2017 to 5.4 percent by 2027, the increase in mandatory spending from 13.3 percent of GDP to 15.4 percent will far more than cancel out that restraint.

[44] Jason Pye, "CBO Report: More Spending, More Debt Over Next Ten Years," FreedomWorks, January 28, 2017 http://www.freedomworks.org/content/cbo-report-more-spending-more-debt-over-next-ten-years

Total federal government outlays have averaged 20.3 percent of GDP over the last 50 years, and currently lie at 21.0 percent, projected to increase to 23.6 percent by 2027. Due to an aging population, Social Security and Medicare costs are expected to account for much of this increase.[45] These costs are categorized as mandatory spending.

Mandatory spending will continue to consume more and more of the federal budget in the long-term, crowding out discretionary spending. Additionally, interest on the debt will do the same. These problems are well-known, yet are not actively being addressed.

Options for Lasting Spending Restraint

Moving forward, Congress, the administration, and those outside of government must make a concerted effort to demand spending limits that include mandatory spending in their scope, as this spending is decidedly unsustainable in the long run.

As seen with the Budget Control Act, legislative means to cap spending can and have easily be altered with further legislation as the caps become inconvenient to abide by. Such an effort means not only new caps on spending, but also mechanisms in place that will be effective in enforcing them. Outlined below are two ideal options, one legislative and one constitutional, that would enact such meaningful reforms.

MAP Act: In 2011[46] and again in 2015,[47] Rep. Kevin Brady (R-Texas) introduced a viable legislative remedy to the growing financial threat presented by government overspending -- capping non-interest federal spending as a percentage of potential GDP, under the Maximizing America's Prosperity (MAP) Act. Neither passed, but both give guidance to structuring another MAP Act or similar legislation effective in restraining federal spending.

The 2011 bill was more comprehensive than the 2015 bill, including provisions for line-item adjustments proven effective at the state level in reducing spending and for a Federal Sunset commission to eliminate ineffective agencies and programs, on top of the noninterest federal spending caps.

The 2015 bill included many fewer provisions, but retained the noninterest federal spending caps, most essential part of the bill. It also addressed the disaster spending budget gimmick, eliminating adjustments to spending limits that are currently permitted for emergency spending.

The MAP Act spending caps should be entertained as a viable option to approach responsibly dealing with the federal spending, as the caps include discretionary and mandatory spending, exempting only interest on the debt from its scope. Its structure is

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[45] Congressional Budget Office, "An Update to thee Budget and Economic Outlook: 2017 to 2027," June 2017 https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52801-june2017outlook.pdf
[46] H.R. 2319, 112th Congress (2011) https://www.congress.gov/bill/112th-congress/house-bill/2319
[47] H.R. 2471, 114th Congress (2015) https://www.congress.gov/bill/114th-congress/house-bill/2471

similar to the “debt break” path taken by Switzerland, where a voter-imposed spending cap was instituted in 2003. Placing a de facto cap on spending has resulted in an average of 2.6 percent annual spending increases in Switzerland, much lower than the 4.3 percent average annual spending increases in the country before 2003.

The MAP Act bases its percentage caps on potential GDP growth instead of on actual GDP. Such a calculation is more resilient policy-wise, because potential GDP is what the GDP would be at under full employment and no inflation. This means, as Rep. Brady expressed in a 2011 Joint Economic Committee hearing on his bill, the “actual GDP poses a problem because it fluctuates with the business cycle.”[48]

Because potential GDP calculations avoid fluctuating with booms and busts in the business cycle, placing the cap on this number keeps spending during boom times under control, and doesn’t “force large, unsustainable spending cuts during recessions.”[49]

The projected effectiveness of implementing MAP Act-style spending caps plays out in analysis of the projected numbers from CBO. The MAP Act, as it was written in 2015, proposes a gradually declining percentage cap for noninterest federal spending on the potential GDP for ten years, dropping from 19 percent to 16 percent. When aligned with CBO’s projected numbers, this seriously limits non-interest spending growth.

CBO’s 2017 Long-Term Budget Outlook[50] projected the non-interest spending to actual GDP ratio to increase from 19.3 percent in 2017 to 23.1 percent by 2046. Placing a spending cap on non-interest federal spending as a percentage of potential GDP will reduce this projection drastically, lowering this ratio to 16 percent if the language from the 2015 bill is retained, and keep federal spending in check.

Although the MAP Act did not succeed as a standalone bill in either year, it has potential to be incorporated as policy into another package. Its enforcement mechanism, across-the-board sequestration, has proven effective in forcing Congress’ hand to move to avoid its fallout. As former Rep. Phil Gramm, one of the authors of the law that first incorporated the sequester, said, ““It was never the objective...to trigger the sequester; the objective...was to have the threat of the sequester force compromise and action.”[51]

This was realized in the aftermath of the sequester triggered by the original Budget Control Act in 2011, and since, Congress has responded to this enforcement mechanism. Capping federal outlays wholly is more meaningful than the caps placed on

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[48] Joint Economic Committee, “Maximizing America’s Prosperity: How Fiscal Rules Can Restrain Federal Overspending,” July 2011 https://www.jec.senate.gov/reports/112th%20Congress/Maximizing%20America%27s%20Prosperity-%20%20How%20Fiscal%20Rules%20Can%20Restrain%20Federal%20Overspending%20(1898).pdf
[49] Ibid.
[50] Congressional Budget Office, “The 2017 Long-Term Budget Outlook,” March 2017 https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52480-ltbo.pdf
[51] Phil Gramm, “Gramm-Rudman as a Deficit Control Device: Testimony before the Senate Finance Committee,” May 2011 https://www.finance.senate.gov/imo/media/doc/050411pgtest.pdf

discretionary spending as in the Budget Control Act. Doing so would reduce government spending, helping to ensure that the private sector grows at a faster rate than the government, creating a more fiscally responsible, prosperous America.

Balanced Budget Amendment: Ideally, Congress would be bound by constitutional measures to keep its spending within reasonable bounds. The MAP Act, although stronger in its spending caps and in its enforcement than the Budget Control Act, still falls victim to the legislative process, meaning that Congress could change it much like they have changed the BCA. A balanced budget amendment to the Constitution, however, would not.

Effectively balancing the budget legislatively through percentage non-interest spending caps linked to potential GDP is leaps and bounds ahead of the BCA, both in its inclusion of mandatory spending and its lack of a firewall between defense and nondefense discretionary spending. However, including measures like this and more through a constitutional amendment would be the best possible solution, although difficult to enact politically.

In the 115th Congress, sixteen balanced budget amendments have been introduced to date. Three of them, all introduced by Democrats, exempting most large mandatory spending programs including Social Security and Medicare from the capped outlays, despite these programs being the very ones that make up the bulk of federal spending. This immediately disqualifies them from being effective in truly addressing the problem.

Between the thirteen balanced budget amendments introduced by Republicans in the 115th Congress, there are numerous approaches and variations on the same theme: requiring that outlays not exceed revenues, and capping outlays as a percentage of gross domestic product.

Among the ideal provisions of a balanced budget amendment are limitations on outlays, requirement of a supermajority vote to raise revenue or circumvent any aspect of the article, and a reasonable timeframe for implementation.

A FreedomWorks' November issue brief[52] explores further in depth the individual provisions of each amendment, including their enforcement mechanisms. In all, however, any balanced budget amendment inclusion in the Constitution would be the ultimate enforcement mechanism, as altering it would require another amendment to be ratified.

Conclusion

[52] Sarah Anderson, "Proposed Constitutional Amendments in the 115th Congress to Balance the Federal Budget," FreedomWorks, November 28, 2017 http://www.freedomworks.org/content/proposed-constitutional-amendments-115th-congress-balance-federal-budget

It isn't difficult to see the problem when looking at the spending patterns of the United States in the last few decades alone, and the resulting debt. What was just under a $6 trillion total debt in 2000 has more than tripled to over $20 trillion today, 18 years later.[53]

Similarly, deficit spending prior to 2002 never exceeded $300 billion in a single year, and some years even saw a budget surplus. Since 2002, there has been a deficit every year, with only three years having a deficit under $300 billion.[54]

The massive growth in the federal debt is part of the larger trend of the explosion of mandatory spending in the past half century. In 1967, discretionary spending made up about 75 percent of the federal budget. By 2017, discretionary spending has increased just over tenfold, while mandatory spending has increased nearly sixtyfold. As such, discretionary spending has been crowded out of the budget by ever-growing and heavily-guarded mandatory programs, which now consumes over 60 percent of the budget.[55]

Since 2000, discretionary spending has not even doubled, while mandatory spending has nearly tripled. This rate of growth points clearly to mandatory spending as the true problem in federal spending in the long term. Mandatory spending, along with the resulting interest on the debt, will continue to crowd out discretionary spending no matter how significantly discretionary spending may be capped.

This is a simple, albeit unfortunate, reality of the fiscally irresponsible patterns our government has created in its spending. The longer it is pushed aside by toothless spending deals, the more significant the blow will be once these patterns catch up to themselves.

For now, the Budget Control Act has been and continues to be an invaluable tool for fiscal conservatives to push for fiscal responsibility in Congress. Now, with Republicans in control of Congress and the White House, fiscal conservatives should capitalize on the opportunity before us. It is on these foundations that real discussion of spending and debt limit reform can be had in the now, and can be realized in the future.

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[53] Congressional Budget Office, "Historical Budget Data," June 2017 https://www.cbo.gov/about/products/budget-economic-data#2
[54] Ibid.
[55] Ibid.

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