

**Testimony of the Honorable Jim Nussle (R-IA)
Before a Joint Hearing of
The Senate Committees on Budget and Governmental Affairs
Regarding the Bipartisan Nussle-Cardin Budget Process Reform Bill**

January 27, 1999

I want to thank Senators Domenici, Lautenberg, Thompson and Lieberman for affording me and my good friend and colleague, Representative Ben Cardin (D-MD), the opportunity to testify before this hearing of your two committees on the bipartisan budget process reform bill (The Comprehensive Budget Process Reform Act - H.R. 4837) we introduced in the waning days of the 105th Congress. I am encouraged by your actions on this important subject so early in the 106th Congress.

Before I begin my testimony, I would be remiss if I did not point out that there are a number of Representatives who have worked equally as hard as Congressman Cardin and I have on this bipartisan bill. Specifically, Representative Porter Goss (R-FL), who chairs the Rules Subcommittee on Legislative and Budget Process, was instrumental in drafting this bill. I have enclosed testimony prepared by Representative Goss that I would ask be submitted for the record. Additionally, Chairmen Kasich and Dreier along with Representatives Minge (D-MN), Sununu (R-NH), Radanovich (R-CA) and Granger (R-TX) also played key roles in the development of this bill.

In February of 1998, Chairman Kasich appointed a bipartisan task force on budget process reform to address such issues as the nature and structure of the budget resolution, the budgetary treatment of emergencies, budgeting for contingent liabilities, and baselines and budgetary projections. Chairman Kasich deserves much of the credit for this bill as he urged me to work with the Democrats on the Task Force and gave me the necessary support at critical junctures in the process to produce a bill.

Going into this process, we all knew that congressional budgeting practices could be improved. We also knew the Congressional Budget Act of 1974 needed to be examined with an eye towards an era of balanced budgets and "surplus" revenues. What we did not envision, however, were the difficulties experienced with the budget resolution for fiscal year 1999 or the manner in which the final spending bills were cobbled together.

Our task force held a series of topical hearings on budget process reform in the spring of 1998. We heard a number of very good suggestions and ideas from outside experts in budget policy, such as the distinguished former Representative

Tim Penny who co-chairs the Committee for a Responsible Federal Budget; Dr. James Lee Witt, Director of the Federal Emergency Management Agency (FEMA); Allen Schick, Visiting Fellow, Brookings Institution; Rudolph Penner, the former director of the Congressional Budget Office; and Susan Irving, the Director of Budget Issues of the General Accounting Office. Our task force also heard testimony from nine of our colleagues in the House who have a long-standing interest in budget process reform.

During the summer and early fall we began drafting legislation based on the lessons learned from our hearings. We worked in a deliberate and bipartisan manner to craft this legislation over a period of almost three months. As a result of our efforts, we were able to secure the support of a majority of the members of the task force on both sides of the aisle. We also drew the attention of Representatives who do not serve on the Budget Committee and won the support of respected Members such as Representative Stenholm (D-TX), Representative Barton (R-TX) and Representative Castle (R-DE).

I would also like to recognize the contributions of the many talented staff members who have logged numerous hours in this process. Jim Bates and Carl Christie of the Budget Committee Majority Staff as well as Richard Kogan of the Budget Committee Minority staff proved to be valuable resources and reliable counselors in this process. Additionally, David Koshgarian of Representative Cardin's staff and Rich Meade of my staff were also instrumental in the development of this legislation.

Unfortunately, the fruit of our labor could not be harvested during the hectic closing days of the 105th Congress. Since we had crafted our bill in a bipartisan manner, we did not want it to become the object of a partisan attack from either side of the aisle.

Our bill is based on the assumption that the following fundamental principles should be used while developing a new budget process. Congress should adopt and conduct a budget process that:

- 1) gives the budget the force of law;
- 2) budgets for emergencies;
- 3) discloses the unfunded liabilities of Federal insurance programs;
- 4) strengthens the enforcement of budgetary decisions;
- 5) mitigates the bias in the budget process towards higher spending;
- 6) displays the unfunded liabilities of Federal insurance programs;

7) prevents government shutdowns; and

8) increases budgetary flexibility when there is an on-budget surplus.

The following is an outline of the major provisions of the bill.

Joint Budget Resolution

Perhaps the most important element of the Comprehensive Budget Process Reform Act is the conversion of the existing concurrent resolution into a joint budget resolution which would have the force of law when signed by the President. Under the current budget process, Congress and the President are required to agree on individual tax and spending bills but not the overall framework of the budget. Each year the President presents a detailed, programmatic budget and the Congress passes a concurrent resolution that establishes a common Congressional framework for the consideration of subsequent tax and spending bills. The only way that the President can affect total spending and revenue levels is by vetoing individual bills. Consequently, the budget process bogs down as the President may reject individual bills because he does not concur with the overall levels on which they are based.

This dynamic was clearly in play in the 104th Congress when the President repeatedly vetoed appropriations bills in part because they were based on an overall level of discretionary spending that he found unacceptable. Finally in 1997, the Congress and the President committed to a common budgetary framework in a Memorandum of Understanding between the Congress and the President. The MOU essentially served as a joint budget resolution establishing the overall parameters for subsequent tax and spending legislation. In fact, Congress and the President have turned to such MOU's each time there has been a major budget agreement and the Congress and the President were controlled by different political parties.

Our bill was developed with the hope that we can regularly repeat the great cooperation between Congress and the President that led to the historic Balanced Budget Act of 1997. That process worked because Congress and President Clinton agreed to basic principles and a framework at the beginning of the budget negotiations process, and weren't forced to negotiate under pressure of a deadline at the end of the budget process.

If the President signs the joint budget resolution, Congress would move tax and spending bills, which would be governed by the spending limits established in the joint budget resolution. The President would still sign or veto each spending bill

as it passed Congress. If the President refused to sign the joint budget resolution, Congress could quickly pass a concurrent budget resolution and operate in a manner similar to the current process.

In order to focus initial negotiations on the broad framework of the budget, the Comprehensive Budget Process Reform Act would restructure the budget resolution. The bill replaces the 20 functional categories of spending in the budget resolution with seven categories of budget aggregates: defense discretionary, non-defense discretionary, total discretionary, mandatory spending, revenue, debt, and a reserve fund for emergencies. The budget resolution would become a device for reaching an agreement on overall spending and revenue levels. Policy and distributional issues would be settled in subsequent negotiations over individual tax and spending bills.

Reserve Fund for Emergencies

Another key element of the Comprehensive Budget Process Reform Act is its reform of the treatment of emergency spending. In recent years, emergency spending has increased dramatically, primarily as a consequence of devastating events such as the Northridge earthquake and Hurricane Hugo. However, higher emergency spending has also been driven in part by the fact that emergency spending does not count against the statutory spending caps under current budgetary rules, making it essentially "free" money.

As was seen at the end of the last Congress in the Omnibus Appropriations Act, emergency spending is basically defined as whatever the President and Congress say it is. The Comprehensive Budget Process Reform Act sets forth clear, concise criteria as to what constitutes an emergency. These criteria, which are based upon the OMB definition of emergency spending adopted following the Gulf War, are that the spending must be for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and is unanticipated. Unanticipated means that the situation is sudden, urgent, unforeseen, and temporary. I am pleased to note that the budget process reform legislation introduced by Senator Domenici includes similar emergency criteria.

The more concise definition of emergency included in the Comprehensive Budget Process Reform Act should help curb some of the more flagrant examples of abuse. For example, while I agree with those who contend that the Year 2000 computer problem (Y2K) is a serious issue, it would not constitute an emergency under the definition included in this bill. Nor should Y2K be considered an emergency, we've known about the challenges the year 2000 will present for a number of years.

The bipartisan Comprehensive Budget Process Reform Act would also reduce the incentives to mischaracterize spending as emergency spending by creating a reserve fund for emergency aid, and reserve that money *exclusively* for emergencies. By contrast, under current law there is no limit to how much money can be spent on emergencies. The bill would require Congress and the President to set aside an amount equal to the five-year historical average spending for emergencies. That money could not be spent unless the situation in question meets the criteria of emergency defined in the bill.

I believe there is much to commend this approach. First of all, it provides a reasonable assurance that emergency spending will go to legitimate emergencies. Second, it preserves Congress's power over the purse because it is the Congress that determines whether a legitimate emergency exists. Third, it could relieve the Congress of the time-consuming task of finding offsets for individual emergencies because the reserve would come out of the caps. Fourth, it is based on a tried and tested mechanism for augmenting the budget for bills that provide funds for specified purposes. Since the enactment of the Budget Enforcement Act in 1990, the Chairmen of the Budget Committees have adjusted committees' allocations for such factors as continuing disability reviews, arrearages, and land acquisitions. Finally, the beauty of the reserve fund concept is that if we set aside more money for disasters than is required, that amount simply increases the surplus, because the money actually never was appropriated.

Accountability for Entitlement Spending

Our bill would establish several procedures to curb the proliferation of new entitlement programs. Entitlements provide direct spending because, once they are authorized, the spending occurs automatically unless the underlying law is amended or repealed. The funding levels for these programs are determined by the number of eligible participants, the eligibility requirements and the benefit levels in the underlying law.

Despite measures in the 1974 Budget Act designed to curb so called non-controllable spending, the number of new entitlement programs has dramatically increased. According to the General Accounting Office, there were 145 more mandatory programs in 1996 than there were 10 years earlier.

The Comprehensive Budget Process Reform Act requires that any proposal for new entitlement spending, whether included in the President's budget or Congressional bills, include a justification for not subjecting the spending to annual appropriations. This will encourage those proposing new entitlement spending to at least take closer look at the programs and determine whether they really need to be entitlements.

This bill also allows Members to offer amendments to subject proposed entitlement programs to annual appropriations. It limits the ability of the House to waive this right and makes any such amendment germane to the bill. To facilitate the conversion of entitlements into discretionary programs, the bill holds the Appropriations Committee harmless for new discretionary spending that is offset by designated reductions in direct spending.

Sunset and Expanded Oversight

The bill includes a series of small but enforceable steps towards requiring all committees to systematically re-authorize all Federal spending programs. I take as an operating premise that no program, however important, should be immune from Congressional oversight.

The bill requires all committees to submit a plan for re-authorizing all programs, both mandatory and discretionary, at least once every 10 years. The House is prohibited from considering the expense resolution of any committee that fails to submit a reauthorization plan.

The bill prohibits the consideration in the House of any bill that creates a *new* program that is not sunset within 10 years. Any bill that authorizes a program for more than 10 years would be subject to a point of order. Significantly, this requirement would only apply to new programs, and neither new nor existing programs would automatically sunset if they were authorized for a shorter period.

Automatic Continuing Resolution

We take the bold step of agreeing to an automatic continuing resolution in order to prevent future government shutdowns. Our bill would provide for an automatic interim appropriation for any program, project or activity for which an appropriation bill is not enacted by the beginning of the fiscal year. Funding would continue at the prior year's level indefinitely, or until Congress and the President are able to reach agreement on the appropriate spending levels.

I believe that an automatic CR will take away from both the President and Congress the incentive to refuse to negotiate in good faith on appropriation bills on the assumption that one side or the other will bear the wrath of the public for shutting down the Federal government.

I was pleased to find out that Senator Domenici included a similar automatic continuing resolution in the budget process reform bill he introduced several weeks ago.

"Baseline" Budgeting

The bill takes a small step towards changing the baseline mentality that contends that any attempt to slow down the growth in spending constitutes a cut. Drawing from a House-passed bill offered by Representatives Stenholm and Penny during the 103rd Congress, our bill requires that Presidential budget submissions, budget resolutions, appropriations reports, and cost estimates compare proposed spending and revenue levels with the actual spending levels of the prior year.

We also try to shed light on the sources of projected growth in entitlement spending which is expected to explode early in the next century. The bill requires both the Office of Management and Budget and the Congressional Budget Office to periodically report on such sources of projected growth in mandatory spending as inflation, changes in medical technologies, and program enrollment.

Budget for Contingent Liabilities

During the Task Force hearing and discussion with GAO, CBO, and OMB, it became clear that existing cash-based, short-term budgeting and accounting procedures do not capture the contingent liabilities and other long-term programmatic costs of Federal insurance programs. Accordingly, this bill provides for a shift to accrual budgeting for Federal insurance programs, as well as other measures intended to capture the medium-term costs of proposed legislation and the long-term budgetary implications of current and proposed budget priorities.

Currently, the budget shows the short-term cash flows for such Federal insurance programs as deposit, pension and political risk insurance. Frequently, the premiums paid into the insurance programs do not reflect the program's long term costs to the Federal government. Not surprisingly, policy makers have little incentive to take measures that would minimize the financial risk posed by these programs over the long term. There is a strong incentive for policy makers to embrace policies that provide short-term budgetary relief but exacerbate financial problems over the long run.

Building on the principles of credit reform for loans and loan guarantees, this bill requires OMB, CBO and Federal agencies to estimate the expected loss from Federal insurance programs instead of short term cash flows. Congress and the President would ultimately be required to budget each year for the expected losses from new and expanded insurance programs.

Additional changes are made in the budget process to capture other long-term costs that are not reflected the budget. Most importantly, it extends the horizon for the cost estimates of proposed legislation from five to ten fiscal years. Additionally, it requires OMB and CBO to periodically report on long- term budgetary trends under current law and as proposed by the President.

"PAYGO" Requirements and the Surplus

We were even able to find common ground on permitting the surplus to be used for tax cuts and other initiatives if the budget is in balance without counting Social Security surpluses. Under existing PAYGO requirements, tax and entitlement legislation must be offset by entitlement cuts or tax increases. Our bill permits tax cuts without offsets so long as the Federal government is running an on-budget surplus. Notwithstanding our agreement on this element of the bill, we may very well disagree on what the surplus should be used for whether further PAYGO reforms are in order.

"Lock-Box" for Spending Cuts

Our bill establishes procedures to lock in savings from floor amendments to increase the surplus. The provision is similar to lock box provisions that have passed the House with bipartisan majorities. Under the lock-box, both the caps and appropriate levels in the budget resolution are automatically reduced by the amount of a floor amendment that reduces an appropriation line-item. This mechanism effectively prevents the Appropriations Committee from reprogramming savings from floor amendments to other programs in the same or another subcommittee allocation.

The lock-box is not an entirely new concept to the Senate-the Line Item Veto Act of 1996 (P.L. 104-130) included a lock box mechanism that, among other things, reduced the caps by the amount of savings resulting from rescissions. Unfortunately, the Line Item Veto was struck down last year by the Supreme Court for unrelated reasons.

I again commend your committees for turning your attention to this important subject at the outset of the 106th Congress. I firmly believe that the further we get into the budget cycle, the more difficult it will be for Congress and the Administration to agree on budget process reform.

While there are only a few of us on either side of the Capitol who can get excited about this subject, reforming our budgetary process is vitally important. The budget and spending bills for fiscal year 1999 should be reason enough for Congress to move quickly on comprehensive budget process reform legislation such as the bipartisan bill Congressman Cardin and I introduced last year.