The Heritage Foundation

ISSUE BRIEF

No. 4790 | NOVEMBER 30, 2017

Six Budget Gimmicks to Watch For in the December Budget Deal

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The government funding deadline is December 8. Troubling reports indicate that backroom negotiations are underway on another budget deal that would increase the Budget Control Act caps for 2018 and 2019 by at least $182 billion. Equally troubling as the reported increase is the fact that at least a portion of it may not be offset.[1] Assuming that any of the spending increases are offset, many of the savings will not be realized until years down the road. Moreover, Congress may be tempted to use budget gimmicks and accounting tricks in its search for offsets.[2]

Congress should prioritize spending within the total Budget Control Act spending cap. If Congress chooses to raise the caps, any resulting spending increase should be fully offset with meaningful mandatory spending reforms, not budget gimmicks.

This *Issue Brief* details six budget gimmicks to watch for in the December budget deal.

1. Spend Now, Save Later

This gimmick does exactly what its name implies. It spends money now with the promise of offsetting that spending with budget cuts far into the future. According to the Congressional Budget Office (CBO), the Bipartisan Budget Act of 2015 cut mandatory spending by $47 billion over 10 years. Over 86 percent of those cuts were not realized until the 10th year of the budget window.[3]

Immediate spending increases are guaranteed, but the offsets are often vague and the likelihood of them ever materializing is uncertain at best. The policy also increases debt in the short term, driving up interest payments which are often not accounted for when calculating the costs of legislation.

Spend now, save later is a failed approach. If Congress decides to increase the spending caps, savings should materialize immediately. If savings are delayed, Congress should include the additional interest costs from higher debt in the amount of offsets.

2. Using Overseas Contingency Operations Funding for Base Defense Requirements

Overseas Contingency Operations (OCO) funds are explicitly exempted from being subject to the BCA caps. These funds are supposed to be used to finance U.S. military engagement across the globe. Since 2001, an estimated $1.8 trillion has been appropriated to the Department of Defense (DOD), State Department, and U.S. Agency for International Development (USAID) for the continuing war on terrorism.

Since 2014, however, instead of being used for their intended purpose, more and more OCO funds have been shifted to prop up the base budget of the DOD, State Department, and USAID.[4] The final 2018 National Defense Authorization Act (NDAA) provided no OCO funding for base requirements;[5] however, Congress could still appropriate a lower level than authorized by the NDAA and then use the OCO gimmick as a means to bridge that funding gap.

This paper, in its entirety, can be found at
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Congress should use OCO funds only as originally intended, not to prop up base funding requirements. Moreover, Congress should begin phasing out OCO and other BCA cap adjustments and budget for these ongoing expenses within the aggregate BCA caps. Additional uncapped funding should be reserved for truly unforeseen events and meet the five criteria of emergency funding previously laid out by the Office of Management and Budget.[6]

3. Timing Shifts

Timing shifts are a commonly used gimmick that Congress uses to "pay for" new spending. In reality, these shifts merely move numbers around on paper. Timing shifts change the year in which a revenue or expense is reported. For example, by changing a payment date from October 1 to September 30, Congress can shift revenues from the 11th year of the budget window to the 10th year. For scoring purposes this makes it appear like an offset; in reality, the payment was merely sped up by one day.[7]

One example of the timing shift gimmick is from the 2013 "doc fix" package, which delayed a looming cut to Medicare physician payments. To pay for a portion of the extension, Congress shifted Medicaid savings achieved through the Bipartisan Budget Act of 2013. About $2.1 billion of these savings carried over into 2024, outside the 10-year budget window. When it came time to pass the "doc fix" though, Congress shifted those savings from 2024 back into 2023 to help pay for the plan.[8]

Timing shifts are an outright gimmick and should be rejected.

4. Pension Smoothing

Pension smoothing operates in a similar fashion to timing shifts and has been repeatedly used as a budget offset. With this gimmick, Congress allows businesses to delay making mandatory pension payments. Because the pension payments are tax deductible, this delay may result in some companies paying a slightly higher tax bill. The federal government then uses those additional revenues to pay for new spending. However, when those same companies are forced to inject more money into future pension payments, federal revenues are decreased.[9]

A recent example of pension smoothing is the Highway and Transportation Funding Act of 2014. The bill allowed for single-employer defined benefit plans to assume higher interest rates on future liabilities for the 2013–2020 plan years. According to the CBO, using higher rates "would reduce the minimum contributions that employers are required to make to such plans, leading to increases in offsetting receipts, direct spending, and revenues."[10]

Pension smoothing is bad policy and could ultimately increase the amount of underfunding in pension plans.

1. Paul Krawzak, "Hill Leaders Discussing $182 Billion, Two-Year Spending Pact," CQ, November 16, 2017, http://www.cq.com/doc/news-5218168?8&search=fQLCHI5l (accessed November 29, 2017).
2. Justin Bogie, "Budget Gimmicks Increase Federal Spending and Mask True Costs of Legislation," Heritage Foundation *Backgrounder* No. 3234, July 26, 2017, http://www.heritage.org/sites/default/files/2017-07/BG3234.pdf.
3. Congressional Budget Office, "Estimate of the Budgetary Effects of H.R. 1314, the Bipartisan Budget Act of 2015," October 28, 2015, https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr1314.pdf (accessed November 29, 2017).
4. Lynn M. Williams and Susan B. Epstein, "Overseas Contingency Operations Funding: Background and Status," Congressional Research Service *Report for Congress* No. 44519, February 7, 2017, https://fas.org/sgp/crs/natsec/R44519.pdf (accessed November 29, 2017).
5. U.S. House of Representatives, National Defense Authorization Act for Fiscal Year 2018, Conference Report to Accompany H.R. 2810, http://docs.house.gov/billsthisweek/20171113/HRPT-115-HR2810.pdf (accessed November 29, 2017).
6. Committee for a Responsible Federal Budget, "What's An Emergency?" June 22, 2010, http://www.crfb.org/blogs/whats-emergency (accessed November 29, 2017).
7. Cheryl D. Block, "Budget Gimmicks," in *Fiscal Challenges: An Interdisciplinary Approach to Budget Policy* (Cambridge: Cambridge University Press, 2007), https://law.wustl.edu/faculty/workshops/budgetgimmicks.pdf (accessed November 29, 2017).
8. Committee for a Responsible Federal Budget, "3-Month SGR Fix Proposed," December 11, 2013, http://www.crfb.org/blogs/3-month-sgr-fix-proposed (accessed November 29, 2017).
9. Congressional Budget Office, "Cost Estimate for H.R. 5021: Highway and Transportation Funding Act of 2014," http://www.cbo.gov/sites/default/files/45522-hr5021a.pdf (accessed November 29, 2017).
10. Vipal Monga, "Welcome to the World of 'Pension Smoothing': New Bill Extends Provision That Allows Firms to Delay Making Pension Contributions," *The Wall Street Journal*, August 11, 2014, https://www.wsj.com/articles/welcome-to-the-world-of-pension-smoothing-1407800119 (accessed November 29, 2017).

5. Extending Customs User Fees

Customs user fees were established in 1985 as a means to pay for inspection services performed by the U.S. Customs Service. They originally expired in 1989, but have been extended on numerous occasions. The fees have recently gone from paying for legitimate needs to funding wholly unrelated spending. Previous budget deals have extended the fees to help offset discretionary increases and the 2017 Omnibus Appropriations Act used a three-and-a-half-month extension of the fees to fund a $1.3 billion bailout of coal miners' pension plans.[11]

This same gimmick could be used in the next budget deal. If these fees are no longer necessary, then those savings should be passed on to travelers, not to pay for more domestic spending.

6. Strategic Petroleum Reserve and/or Spectrum Pipeline Sales

Another popular offset has been to sell off government assets such as the Strategic Petroleum Reserve (SPR) and spectrum pipeline. The SPR was created in the 1970s and currently sits at around 700 billion barrels. It has only been drawn down on three occasions.[12] The Bipartisan Budget Act of 2015 assumed $5.5 billion in offsets from SPR sales (at unrealistically high prices) to help pay for increases to discretionary spending.[13] Spectrum pipeline sales have been used in a similar manner.

Selling off these assets is generally good policy; however, revenues should go towards deficit reduction, not additional spending.

Conclusion

These six gimmicks are just a few of what Congress may try to use to "pay for" the upcoming budget deal. Congress should prioritize spending within the total Budget Control Act spending cap. If Congress chooses to raise the spending caps any resulting spending increase should be fully offset with meaningful mandatory spending reforms; not budget gimmicks. The fiscally responsible path prioritizes defense spending within current budget restraints.

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11. Justin Bogie and Rachel Greszler, "Massive Spending Bill Fails to Meet Conservative Priorities," Heritage Foundation *Commentary*, May 1, 2017, http://www.heritage.org/budget-and-spending/commentary/massive-spending-bill-fails-meet-conservative-priorities.
12. U.S. Department of Energy, Office of Fossil Energy, "Strategic Petroleum Reserve," https://energy.gov/fe/services/petroleum-reserves/strategic-petroleum-reserve (accessed November 29, 2017).
13. Congressional Budget Office, "Estimate of the Budgetary Effects of H.R. 1314."