Testimony of

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May 26, 2010

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CONGRESSIONAL TESTIMONY

Testimony before
Constitution Subcommittee of the Senate Judiciary Committee
United States Senate

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My name is Alison Fraser. I am the Director of the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

S. 524, the Congressional Accountability and Line-Item Veto Act of 2009, would enhance the President's existing toolkit to control federal spending. Presidents have long sought additional authority over spending legislation through powers similar to nearly every governor in the nation. After the Supreme Court struck down the Line Item Veto Act of 1996, several attempts have been made to strengthen the President's existing authority under the Congressional Budget and Impoundment Control Act of 1974. As the nation watches the fiscal contagion which started with Greece's budget crisis spread across Europe, the concerns and attention to unsustainable federal spending on our own shores have taken on crucial new urgency.

Underwhelming Track Record of Rescissions
A president currently has authority to submit a package of spending reductions for Congressional action under the Impoundment Control Act (ICA). Congress, however, is not required under the existing ICA to act on rescission package submissions.
Every President since 1974 regularly submitted packages to Congress except George W. Bush. President Reagan submitted the most rescission requests to Congress: 602 requests totaling $43 trillion. But, Congress accepted only 36 percent of these requests. President George H.W. Bush in his one term in office submitted 169 rescissions of $13 trillion, of which Congress approved only 20%. Of the $43 trillion in federal spending since 1990, Presidents have proposed rescinding only $20 billion, and Congress has approved just $6 billion - just 0.01 percent of all

spending. Only in 1981 and 1982 did total enacted rescissions exceed 1 percent of discretionary spending. Thus, the track record for rescissions is underwhelming .

Enhanced Authority

This legislation would enhance existing Presidential ICA authority by two ways: requiring Congress to act via an up or down vote without amendment, and that that vote must occur within certain time parameters. While this is certainly an improvement, it is only a slight one and will not likely have a major impact on the trajectory of federal spending in and of itself. This enhancement only applies to earmarks, limited tariff benefit or targeted tax benefit, making it even less likely to have a material impact on spending given the sheer magnitude - or lack thereof - of these fiscal categories.

For example, there were approximately 9,500 earmarks in FY 2010 appropriations bills totaling nearly $16 billion. Yet, discretionary spending alone increased by $117 billion in 2010. So even eliminating all earmarks through enhanced recession would barely dent spending growth. Since many earmarks do not appear in appropriations bills (despite promises and limited reform efforts to the contrary) but conference reports which are not legally binding, it is unclear whether they would qualify for this enhanced rescission. From a purely budgetary standpoint, the impact of the legislation seems minimal. Moreover, the nature of the political process makes it inconceivable that Members of Congress would vote to overturn all their hard fought earmarks even if the President inclined to submit them all in a rescission package. The same holds true for preferential tax treatments and limited tariff benefits which are equally hard fought by armies of lobbyists and special interest groups.

Perceptions and Unintended Consequences

As with any legislation there are the risks of "unintended consequences." One risk with this Act is that by focusing on tightly targeted criteria Congress could continue to increase discretionary spending beyond earmarks and mandatory spending - which is the lion's share of the budget. This could lead to the perception that Congress is taking substantive, material steps to control spending, when in fact the opposite could be true. It could also take pressure off of Congress and the President to seriously address our looming fiscal crisis by giving additional credence to the notion that earmarks are the major cause of runaway federal spending and today's unprecedented deficits. Moreover, budgetary horse-trading could result in a Member's support for even higher spending on presidential priorities being garnered in exchange for said Member's favored earmark or tax treatment not appearing in a rescissions package.

Improvements to Legislation

One way to make this legislation more effective would be to allow more spending to be included in Presidential rescissions. For example, the Legislative Line-Item Veto Act of 2006 by Senator Bill First (R-TN) and Representative Paul Ryan (R-WI) would have allowed the President to include entitlement changes and all discretionary appropriations. Discretionary spending has grown 79 percent since 2000 in real terms, so including broader criteria in the legislation could increase the likelihood that material reductions in spending could occur and would take the focus off of earmarks alone as the major driver of our spending problem. Adding entitlement law changes would give even broader authority to address the major spending drivers.

More Needed

As noted, the focus in the Congressional Accountability and Legislative Line Item Veto Act on preferential treatments in earmarks, taxes and tariffs, are not broad enough to materially affect the trajectory of federal spending. Nor is discretionary spending, less than 40 percent of total spending, the root of the problem. The real cause is mandatory spending, which today comprises 56 percent of total spending. In real terms mandatory spending has increased over 200 percent since 1990, driven largely by entitlement spending on Social Security, Medicare and Medicaid.

The growth in health care and demographic changes are set to drive spending on these three programs alone to levels that will eclipse the historical levels of taxation in less than two generations: from 9.8 percent of GDP in 2010 to 18.2 percent of GDP, the 30 year historical tax average, by 2052.

Total spending over that same time frame would increase to 39 percent of GDP, leaving crushing deficits of over 20 percent of GDP, as large as the historical level of spending. Of course this will not happen as the experiences of Greece, Spain, Portugal and other nations are showing. Decisive steps are needed now to ensure that we avoid a crisis or contagion before it reaches our shores. To do that, additional tools and controls are necessary.

Budget Transparency

When Congress establishes its annual budget plans in the budget resolution, it frequently includes a limit on the debt, which today stands at $14.3 trillion. This often painful vote is not the only mark of the federal government's obligations, since it does not measure the excess costs, or unfunded obligations, of entitlement programs into the future. This is akin to setting a family debt limit by including only the credit card and ignoring the costs of the mortgage. Those costs for Social Security and Medicare are nearly $46 trillion. Moreover, appropriations are written only for discretionary spending, less than half of total spending.

Mandatory spending on entitlement programs enjoys the distinction of running on what many call "auto-pilot" without annual appropriations or even regular re-authorization. Thus the main drivers of federal spending are allowed to grow outside the limits established in the budget resolution making a somewhat lopsided focus on the smaller part of spending as priorities are considered and tradeoffs made. The focus on the debt limit, whether in the budget resolution or not, as the only measure of debt and sustainable fiscal policy, is incomplete since it does not include long-term exposures. Towards that end, the following changes to the budget process would bring additional spending controls to address the entitlement spending problem:

? Disclose the long-term entitlement obligations in the budget resolution, providing lawmakers and the public a much fuller understanding of the current and future budget outlook

? Require a similar long-term assessment for Medicaid be made by the Centers for Medicaid and Medicare Services, and

? Set a firm limit on these obligations, with a vote required that will increase these costs on future generations.

Long-Term Scoring

All major policy changes should be scored over the long-term, in addition to the traditional five- or 10-year budget window, to indicate what impact they would have on these unfunded obligations. This would prevent gaming the system by, for example, starting new benefits midway through a shorter-term scoring period to make their costs seem artificially low. It would require a discussion of whether new policies are affordable over the long run.

Long-Term Budget for Entitlement Spending

During annual budget debates, Congress does not limit the costs of entitlement programs as noted earlier, instead they discuss a projection of likely costs. As a consequence, entitlement spending consumes a larger and larger share of tax revenues and less room is left for the other priorities that Congress does debate.

This autopilot budget should be changed into a real budget. Retirement programs require a longer time horizon and more planning certainty so beneficiaries will not face abrupt annual changes in their benefits. Entitlement programs should be converted to a long-term budget framework for a constrained entitlement budget that would be periodically re-evaluated to ensure that these programs are sustainable and affordable over the long term.

This could be done by creating a long-term budget window--30 years, for example. All spending would be reviewed regularly every five years, and Congress would be required to take action to keep the programs within this budget framework, with some form of automatic triggers put in place if Congress does not act . Alternatively, a bipartisan commission could recommend measures to Congress for an expedited vote to bring the programs back within the budget framework.

Summary

The Congressional Accountability and Line-Item Veto Act is a potentially useful tool that could be used to reduce the unprecedented and unsustainable growth in federal spending, especially if it is broadened to include more spending categories. Past Presidents have used existing rescission authority effectively and enhancements included in the Act will strengthen it further. However, it will likely not have the material effect needed on spending, and as noted there are downsides that must be considered. Beyond this legislative line-item veto, additional budgetary tools are necessary to address the fiscal crisis we are soon to face unless decisive steps are taken soon.
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