Chapter 11

From Ambition to Desperation on the Budget

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President Obama inherited a situation that appeared to offer both opportunities and dangers. The budget, and its effects on the economy, were at the center of both. His early choices were very ambitious, and the results included two significant successes: the stimulus bill and health care reform. Yet the administration faced a series of political and policy traps, and after the midterm election these traps appeared to have snapped shut with a vengeance.

The Economic Terrain

The economy affects spending for some programs, such as unemployment insurance and Medicaid; interest rates on federal borrowing; and the profits and earnings that are available for taxes. Yet budget decisions about spending, taxes, and debt are also a major way that politicians seek to influence the economy. The Obama administration's budget decisions therefore were driven by the economic crisis it inherited, yet the economic and political results could be and were overwhelmed by the same economic risks that the budget sought to address.

The crisis was bad enough to help elect him, but, unlike Franklin Delano Roosevelt, President Obama took office when the consequences of the financial system breakdown had only begun to spread through the rest of the economy.

Avoiding a total meltdown required the kind of activism that was sadly lacking in 1930, but Republican responsibility for failure was nowhere near so deeply established as it had been in 1933.

Part of the administration's inheritance was the previous response to the crisis. The Bush administration obtained $700 billion from Congress for a Troubled Asset Relief Program (TARP). The Federal Reserve "undertook a series of extraordinary actions to stabilize financial markets and institutions." Between July of 2007 and the end of 2008, it increased its assets by nearly $1.4 trillion, mainly by issuing loans and other support to financial institutions (United States Congress, Congressional Budget Office 2010d, 1). These measures, in retrospect, helped prevent a total meltdown of the financial system, but could not prevent great damage from the collapse that had already occurred. When the incoming White House team met on December 16 to consider a response, incoming Chair of the Council of Economic Advisers Christina Romer shocked many of her colleagues by arguing for $1.2 trillion in new economic stimulus and "indicated that the minimum amount needed to prevent another depression was in the range of $800 billion" (Alter 2010, 88). As Barbara Sinclair reports in her chapter of this book, the incoming administration and Congressional leadership began work on the $800 billion stimulus before Obama took office. Even this urgent response, however, reflected an underestimation of the problem.

At the beginning of 2009, the Congressional Budget Office (CBO) predicted "a recession that will probably be the longest and deepest since World War II," but still expected unemployment to average only 9 percent in 2010, without any stimulus (United States Congress, Congressional Budget Office 2009b, 1). Looking at similar data at that time, the administration's economists projected that the stimulus would limit peak unemployment to 8 percent (Alter 2010). At the end of February, CBO was predicting only modestly worse results: unemployment at the end of 2009 between 7.8 percent and 8.5 percent, and at the end of 2010 between 6.8 and 8.1 percent (United States Congress, Congressional Budget Office 2009c). Within a few short weeks, however, CBO estimated that unemployment with the stimulus would average 9.0 percent in 2010, based on a judgment that, without the stimulus, "the unemployment rate probably would have exceeded 10.0 percent by the end of the year and peaked at around 10.5 percent in the first half of next year" (United States Congress, Congressional Budget Office 2009d). Even this estimate was too optimistic; instead, unemployment in the first half of 2010 averaged 9.5 percent (United States Congress, Congressional Budget Office 2010b).

The recession ended in 2009, but growth was much weaker than after previous deep recessions (United States Congress, Congressional Budget Office 2010b). The deficit in Fiscal Year 2010 would hit $1.3 trillion, or 9.1 percent of the Gross Domestic Product. Collapsing revenues (to 14.6 percent of GDP, compared to a norm of 18.0 percent) and a mix of automatic and stimulus spending (23.8 percent of GDP, compared to an average of 20.7 percent), created this gap. Thus the Obama administration ended up with the worst of both worlds: high and unpopular unemployment plus high and unpopular budget deficits. The stimulus did improve economic conditions (United States Congress, Congressional Budget Office 2010c), but not enough to help much, if at all, politically.

Budgetary Preferences

The challenge of budgeting is how to match preferences about totals to preferences about details (White 2009). This was particularly difficult given the Obama administration's preferences and the difficult economic circumstances.

The bailouts at the end of the Bush administration, as columnist John Cranford of *CQ Weekly Report* wrote, "shattered any pretense that laissez-faire capitalism alone would continue to guide Washington policy-making" (Cranford 2009). Working off the seeming invalidation of laissez-faire approaches to the economy, President Obama called for active government so as to build an economy that would be solid as a rock rather than foundering on shifting sands. He wanted to reduce the role and risks of financial speculation, and create a health care system that would be more affordable for all Americans, a new energy economy that would create jobs for Americans and limit pollution while shipping far fewer dollars overseas, and a reformed education system that would make American workers far more competitive on the world market (Obama 2009g). He also had to budget for two wars: one of which (Iraq) President Obama had promised to wind down, but the other of which (Afghanistan) he had talked up as a crucial mission. He had also promised a middle-class tax cut during his campaign. A massive stimulus, even if acceptable in the short run, would yield larger debt and, eventually, larger interest payments.

All of these preferences would add to spending or reduce revenues, so they could make the budget situation significantly worse than it had been before the recession hit. But the administration rejected this result. The first wave of retirements by the "baby boomers" would begin in 2012, and, according to a powerful conventional wisdom, this constituted a major economic threat to the nation. The president and most of his advisers agreed and viewed deficit-reduction after the stimulus—in spite of all the planned new spending—as an essential part of the "new era of responsibility" he announced in his inaugural address (Obama 2009g; Alter 2010). Therefore he promised to "get serious about fiscal discipline," which meant to "get serious about entitlement reform" (Obama 2009g).[1] Making such a pledge might be popular; following up on it anything but. Entitlements meant Medicare and Social Security, the core achievements of the Democratic party, so such promises could panic the Democratic base. Yet in order to pass legislation to achieve any of the president's other goals, he would need support from more conservative Democrats for whom the budget was the primary issue, and whose legislators believed the conventional wisdom.

Divisions among the Democrats would be especially problematic because, in spite of the president's campaign rhetoric about moving beyond partisanship, there was little chance of doing so on budget issues. Not only did the minority have little interest in cooperation, as is discussed in other chapters, but the substantive gap was huge. At best, Democrats would worry about the deficit (if they did) because they thought the difference between spending and revenues would have some ill effect. During the Reagan and Bush administrations, it was possible to bargain about packages with more or less revenue or spending measures (White and Wildavsky 1991). When the new century began, however, Republican officeholders overwhelmingly held a different view: that "excess deficits" and "excess spending" were the same thing, and tax increases were virtually never a proper response to deficits.[2] Because "deficit" didn't even mean the same thing to the two parties, there was little basis for cooperation.

Budget Baselines

The Obama administration's budgeting task was made even more difficult by peculiarities of budget "scorekeeping." CBO is required to estimate how much legislation would increase the deficit over a 10-year period compared to existing law. In a series of cases, however, the *law* was not the actual *policy*. Thus even maintaining the status quo would be accused of increasing the deficit.

One case involved the Sustainable Growth Rate (SGR) formula for Medicare payments to physicians. Because total spending rose more quickly than the formula, physician fees were supposed to be cut each year. But the cuts had been postponed or reduced, "temporarily," each year for a number of years. The accumulated difference meant that if the SGR formula were allowed to go into effect in 2010, doctors' fees would have been slashed about 21 percent (United States Congress, Congressional Budget Office 2009b, 20). This clearly would not happen, but CBO had to assume it would.

A second involved the Alternative Minimum Tax (AMT), which was designed to ensure that very high income taxpayers could not reduce their payments too much by claiming deductions. The definition of "high income" has to be raised as average income rises. Since 2000, however, Congress had only enacted "patches" that raised the threshold temporarily. This made Congress and the administration look like they were raising the 10-year deficit less, but the accumulated difference between the patch level and what would happen when the patch ran out meant that, when Obama took office, a permanent fix would reduce estimated revenues by at least $600 billion over 10 years (United States Congress, Congressional Budget Office 2009b, 24–25). Failure to fix the AMT, however, would raise taxes on at least 20 million households (United States Congress, Congressional Budget Office 2010e).

A series of other tax provisions were generally popular with both parties but for various reasons had been enacted on a "temporary" basis at some time and thus were "extended" on some short-term cycle. Only some of them would come up in 2009, but the cost over 10 years of making them all permanent would be about another $700 billion (United States Congress, Congressional Budget Office 2009b, 22–23).

The greatest amount of money and controversy, however, was attached to the tax cuts enacted by Congress and the Bush administration in 2001 and 2003. Republican moderates had wanted a lower total for cuts, over 10 years, than would accommodate all the specific cuts preferred by the Bush administration. Republican leaders "solved" the problem by enacting larger cuts on an annual basis but legislating that they would "sunset" at the end of 2010. In the most extreme version of this approach, they cut the estate tax substantially, but postponed total repeal of the tax until 2010 and then had it return to the 2000 level in 2011! CBO therefore had to estimate that, if no legislation was passed, revenues over the period from 2011 through 2019 would be about $3 trillion higher than they would have been with the terms that existed in 2010 (United States Congress, Congressional Budget Office 2009b, 22–23).[3]

Obama campaigned on a platform of letting tax cuts that affected income over $200,000 for individuals and $250,000 for families expire, but continuing the "middle class" cuts and returning the estate tax, in 2011, to the level in 2009. Republicans could try to block this proposal. But if they filibustered, they might get blamed for denying tax cuts to most Americans, and without legislation they could not extend tax cuts for high incomes. In fighting to extend all of the Bush tax cuts, they would also be arguing for higher deficits. Each position seemed like something that could easily be criticized.

In order to pass either an SGR fix, an AMT fix, or a partial extension of the Bush tax cuts, however, the Democrats would have to officially "increase the deficit." Therefore budget-focused legislators might demand "offsets"—particularly cuts in spending programs—to pay for those measures. Any offsets would lose votes, and if Republicans were not cooperating, the Democrats couldn't afford to lose any votes in the Senate or many in the House. Moreover, at least a few Democrats would want to continue the Bush tax cuts for incomes somewhere above the $200,000/$250,000 thresholds, and a number from farm states thought the 2009 estate tax levels were too high. For the new president to benefit from the expiration of the Bush tax cuts, then, he would have to be more committed to a game of "chicken" than the Republicans were and be confident that conservative Democrats would back him.

An Ambitious Beginning: Stimulus and the 2010 Budget Proposals

How would the new administration resolve the tension between its large policy agenda and the dangerous budgeting environment? With an ambitious set of proposals. President Obama believed that problems were linked and so had to be addressed together, that the results would be what mattered most politically, that short-term political pain had to be accepted for long-term policy and political gain, and that success led to success (Alter 2010; Baker 2010b; Bettelheim 2009a; Nather 2009a). Yet saying policies were linked did not eliminate the practical contradictions.

Obama's stimulus was 50 times larger than the $16 billion that President Clinton had failed to enact in 1993. Its passage testifies to both the level of economic fear at the time and the work done by the president and his party's leaders in Congress (see Barbara Sinclair's chapter in this volume). Yet it was hard to both win sufficient political credit and sufficiently stimulate the economy.

The bill included provisions to jump-start efforts to upgrade national infrastructure, begin creating a new energy economy (mostly through research), and begin transforming health care delivery (through electronic medical records). Yet many of these measures would take time to implement, so they delayed stimulus of the economy.

A tax cut passed earlier in the recession (February of 2008) had been sent as one-time checks to voters, so it would be more visible. Most of this noticeable lump sum, however, was used to increase savings or pay off debt, instead of increasing demand for goods and services. ("2008 Stimulus" 2009). Therefore the new tax cut was set up to increase paychecks by small amounts through the year, but that made it less visible and so contributed to the misperception of the administration's record on taxes that Scott Lilly reports in his chapter.

In addition to tax cuts that were not noticed and infrastructure investment that happened slowly, the third major component of the stimulus was aid to states to ease their budget crises. By definition this could only save jobs (by preventing layoffs and benefit cuts), not add new ones. It was a good way to use money quickly, but unless governors spent lots of time publicly praising the president and Congress, it was also not likely to be noticed by voters.

Even before he took his oath of office, President Obama had felt compelled, even though the TARP was very unpopular, to lobby Congress to allow expenditure of the second half of the program's funds (Alter 2010, 79). In spite of the fact that mainstream budget hawks endorsed a major stimulus (Cranford 2009), Republicans calculated that they could afford to oppose it en masse. Part of their reasoning was that the stimulus could be tarred as a "bailout," and so it was associated by many voters with the highly unpopular TARP. This strategy worked. Even though CBO (2010c) reported that the stimulus had a substantial positive effect, most voters disagreed. By October of 2010, *CQ Weekly* was reporting that, "lawmakers lament that somehow the very word 'stimulus' seems to have been linked to the word 'bailout' and the two together, stimulus and bailout, to 'debt' and 'deficit.'... [O]pinion surveys show that a large segment of the public (two-thirds according to a *Washington Post*/ABC News poll) believes the stimulus was a waste of money" (Schatz 2010).

The stimulus passed because conservative Democrats who made deficit control their defining issue thought, as one leader of the House Blue Dog Coalition explained, that "there clearly needs to be an injection of money. I don't like it at all, but I understand the necessity of it" (Baumann 2009). In principle, an even bigger stimulus could have had a large enough effect to win credit. Yet the fact that the bill was reduced a bit in the Senate, at the insistence of the Democrats' more conservative members, suggests that a larger bill was not in the cards. In order to get more, President Obama would have had to insist that the economy was in even worse shape than it seemed in January. But the president appeared to be walking a tightrope, trying to show he recognized voters' pain without further depressing consumer and investor confidence (Bettelheim 2009b). In retrospect, he may have been walking on thin air.

The president outlined his proposed budget for Fiscal Year 2010 (FY2010), which would begin on October 1, 2009, on February 24. He declared that the "day of reckoning has arrived, and the time to take charge of our future is here," promising to "invest in areas like energy, health care, and education that will grow our economy, even as we make hard choices to bring our deficit down" ("Big Plans" 2009). The proposal's ambition matched the rhetoric.

To begin, Obama used what was essentially a current policy baseline, rather than current law, to describe the effects of his policies on the deficit. For example, he assumed that the AMT would be continually adjusted over the next 10 years, that the Bush tax cuts would continue, and that the wars in Iraq and Afghanistan would be funded (Bush had left them out of the regular budget) and continue. This was somewhat more honest than assuming current law would be followed, but it also allowed him to call proposals deficit-reducing or neutral that otherwise would be called budget-busters.

The tax proposals in the budget outline were breathtaking in scope (for a summary, see Schatz 2009). Obama proposed that the Bush cuts for incomes under the $200,000/$250,000 income thresholds be extended, but not the higher-income cuts. He wanted to keep the estate tax at 2009 levels, and also proposed a permanent fix of the AMT. He then proposed to fund other priorities with taxes that he considered justified for other policy reasons as well. A new system to charge for carbon emissions and create a market to trade rights to pollute—"cap and trade" in the energy policy lingo—was projected to yield $646 billion over 10 years. This would give businesses very strong incentives to reduce pollution, preferably by finding alternative energy sources. He proposed to use $120 billion of the revenue to fund renewable energy programs. The rest would be used to make the "making work pay" tax credit in the stimulus bill permanent. The administration sought to fund a "middle-class" (and in fact progressive) tax cut with a tax increase that would have uncertain incidence, but could be justified as part of building a new economy (for discussion, see United States Congress, Congressional Budget Office 2009e).

Similarly, he proposed to create a $634 billion (over 10 years) "reserve fund" for health care reform. Half would be achieved with cuts in payments for Medicare and Medicaid, in ways that Democrats thought would have little effect on beneficiaries.[4] The rest would come from capping the value of deductions claimed by taxpayers in the top two brackets to the value those deductions would have in the 28 percent bracket. This could be viewed as addressing an inequity in the tax code, which gives larger "subsidies" from tax breaks to people who are paying higher rates. The president's budget outline also would have redistributed income by expanding a range of tax credits for mainly middle-class individuals and raising taxes for businesses (especially on income earned overseas and by private equity fund managers).

In addition, by first increasing the baseline for military spending and then "drawing down troops from Iraq responsibly" (Office of Management and Budget 2009, 53), the administration made room for some increases in spending, such as for education programs, beyond the underlying rate of inflation.[5] The administration projected that its policies would cut the deficit more than in half, reducing it to a stable level of about three percent of GDP by the end of Obama's term. Investments in health care, energy, and other priorities could still be funded by the new taxes and cuts in a number of small programs (Office of Management and Budget 2009).

The Budget Resolution agreed between the House and Senate in April included, or did not specifically exclude, many of the proposals. It allowed some increase in domestic spending (though not as much as the president requested). Most important for the future, the resolution allowed the Democrats to use the procedure called reconciliation to pass both health care reform legislation and reform of student loan programs—though not until after October 15. But the proposal did not eliminate the key constraints.

CBO's updated economic forecast just a few weeks later projected that the deficit would be cut in half from the extremely high 2010 level but, rather than stabilizing, would then grow as a share of the economy (United States Congress, Congressional Budget Office 2009b). Hence the administration could not claim to either its more reluctant allies or outside critics that, if its policies were enacted, the deficit would be controlled.

Second, the president declaring a different baseline didn't change how CBO would evaluate proposals. In principle, Congress could have instructed CBO to adjust its baseline to match the administration's; in practice they would have been accused of "rigging the numbers." In any event, doing nothing meant that budget-focused Democrats would hesitate to deal with the booby traps in the baseline.

Third, Congress did not include the changes to the AMT, Bush tax cuts, and other "tax extenders" in reconciliation instructions. There were logical reasons not to do so: Democrats had blasted the Republicans for using reconciliation to pass the tax cuts in the first place, and using reconciliation for health care reform was already controversial. But this meant that dealing with these issues would require 60 votes, which is a key reason why they were still unresolved when the midterm election occurred.

Fourth, some policies were not explicitly rejected in the budget resolution process, but the reactions at the time made them seem very unlikely to happen. Thus "cap and trade" would have been allowed and actually was passed by the House—but by April it was clear that it was unlikely to pass in the Senate. The proposed limits on itemized deductions were criticized by Senate Finance Committee Chair Max Baucus, and other Senate Democrats opposed other Obama tax proposals (Schatz 2009).

Last but not least, more conservative Democrats were very nervous about supporting the budget resolution. It passed in the House only after Speaker Pelosi and Majority Leader Hoyer promised, in writing, process reforms that Blue Dogs sought. Senate budget hawks, especially Budget Committee Chair Kent Conrad, made clear that they would also be demanding extraordinary measures to address long-term deficits.

Wishful Thinking: Health Care Reform

If 30 million Americans gain health insurance due to the Affordable Care Act, they could legitimately argue that these shortfalls in the budget resolution were dwarfed by the provision that allowed health care reform to finally pass. After the election of Scott Brown from Massachusetts to the Senate established that the Republicans could defeat any conference agreement with a filibuster, a last-minute reconciliation turned out to be the only way to change the Senate bill in a way that House Democrats could accept.

There are numerous sources about the health care reform battle (Alter 2010, 244–271; Hacker 2010; "House Vote Caps Long Legislative March" 2010; Jacobs and Skocpol 2010; Marmor and Oberlander 2010; Wayne and Epstein 2010). We only need to look at the budgetary dimension, which is central to understanding both the decision-making and results of the Obama presidency.

The budgetary politics of health care derive from the politics of the "entitlement crisis." Projections continually show massive increases in spending over the decades to come on Medicare, Medicaid, and Social Security. In reaction to the claim that "greedy geezers" would bankrupt the nation, analysts who believed these programs were central to a decent society argued that the growth in spending was to a great extent caused by projected increases in spending on health care, that these increases were due mainly to expected growth in spending per person rather than to the aging of the population, that the same projections suggested that health insurance for all Americans would become unaffordable, and that therefore the "entitlement crisis" was really a health care cost crisis. Moreover, for many reasons, if costs were out of control outside of the government programs, it would be harder to control the government's costs. From this perspective, "[f]undamental, systemwide reform of health care financing and delivery is the key to controlling Medicare and Medicaid expenditures—and reducing projected long-term deficits—without imposing draconian cuts that would harm the poor, the elderly, and people with serious disabilities" ("A Balanced Approach to Restoring Fiscal Responsibility" 2008, 2).

Aside from any policy merits, this argument provided a policy approach that in principle could unite the deficit-hawk and liberal wings of the Democratic party. Health care reform to expand coverage and control costs for everyone would also help the budget. The president took this position in his campaign (Alter 2010), and the administration continually linked health care reform to budget control in its statements about long-term budget issues after taking office (e.g. in Fiscal Responsibility Summit 2009, 2, 11).

The catch, however, was whether any particular systemic reform would actually control costs. Orszag fervently believed, and appears to have convinced the president, that the "cost curve" could be "shifted" by measures that addressed unnecessary use of care. Research showed that the volume of specific services and therefore costs varied substantially across communities or hospitals, that this variation was not clearly connected to need, and that medical results were no better in the more expensive communities and hospitals. If practice patterns could be reduced to the level in the less expensive communities and institutions, there could be massive savings with no effect on people's health (Clarke and Young 2009; Fiscal Responsibility Summit 2009; Alter 2010).

From this seed a forest of ideas for "delivery system reform" had grown. It emphasized ideas such as paying doctors "for performance" rather than per service, or creating "accountable care organizations" to integrate care. Unfortunately, all of these ideas were unproven, so CBO would not credit claims of meaningful savings from any of the delivery reform measures that the administration and its allies proposed (United States Congress, Congressional Budget Office 2008; Marmor, Oberlander, and White 2009).

Moreover, arguments that variations should be controlled, even ideas such as that the government should promote "cost-effectiveness research" or "evidence-based medicine," appeared to imply that the government would set standards for medical practice. This could be represented as the government interfering with the doctor/patient relationship, and so could arouse fears of "rationing" that had, for generations, been the main conservative argument against government expansions of health insurance. The administration, and President Obama himself, had no simple answer to this concern (Alter 2010, 261; Bettelheim 2009c; Nather 2009c).

There *was* an alternative cost control approach: to address the huge difference in prices and administrative overhead between the United States and any other country (Marmor, Oberlander, and White 2009; McGillis 2010). Regulation of prices was more popular with the voters than any hints of restricting care could be (Oberlander and White 2009). Medicare had a better cost control record than private insurance (which isn't saying much) because it had more market power to limit prices per service. Advocates of the "public option"—a major dividing line within the Democratic party—supported it because, if it were linked to Medicare's market power, it should be able to underprice private insurers, forcing them either to drive harder bargains with providers or find other ways to control costs (Hacker 2010; Oberlander and White 2009). If this argument were correct, the public plan would make insurance more affordable for the currently insured as well as the newly insured. CBO made clear that it would "score" savings from the public plan, though they would depend on the rates it could pay.

The Affordable Care Act rejected this approach. It included a wide variety of pilot programs and other versions of the delivery system reform agenda, for which CBO recognized virtually no savings. It included some cuts to Medicare spending, which might well be justified but could be attacked as paying for reform from benefits of the elderly. Moreover, using Medicare savings to pay for health insurance expansions meant that, at least for the next 10 years, they could not be used for deficit reduction—which contradicted one of the administration's signature claims (Clarke 2010a). Last, the law included a tax on supposedly excessive health insurance benefits. The merits of this "Cadillac tax" were dubious enough (for two sides, see Jost and White 2010 and Van de Water 2010), but the politics were awful. It was unpopular and certainly would not make care more affordable for the people it affected.

The conventional political wisdom among health care reformers said that the majority constituency for reform would not be based on expanding coverage but on relieving fears about losing coverage. Why, then, did the administration adopt cost control methods that either were not deemed effective by CBO, or were *actually designed to reduce coverage*? Four reasons stand out:

- Key administration advisers didn't like price regulation or passionately believed in the reduction-of-variation agenda (Cutler 2010; Emanuel 2008).
- Provider interests hated price regulation and would not support the law if it included a public plan that could extend anything close to Medicare rates beyond the Medicare population. In the words of a veteran congressional aide, "(e)very provider group would be 4-square against the bill. That's not an assumption, that's a known. That's Armageddon for them."
- More conservative Democrats, such as the Blue Dog Coalition, did not like the public plan and especially did not like it paying anything like Medicare fees (White 2011).
- If there was anything on which both conservative and liberal economists (with a few eminent exceptions) agreed, it was that allowing companies to provide insurance as an untaxed benefit was unfair and caused excess costs (Rampell 2009 and personal conversations). This consensus influenced the White House, press, and legislators such as Senator Baucus.

If implemented, the reform would be the most significant social policy initiative since passage of Medicare and Medicaid in 1965. But that does not change the facts: the savings achieved were too small, uncertain, or far in the future to reduce budget hawks' worries about long-term deficits or reassure currently insured voters. In short, both because his circle of advice was apparently united in one view and because of a political calculation about what was necessary to pass the bill, President Obama pushed through legislation that did not satisfy the political and budgetary goals of reform.

Wriggling in the Net: The Politics of Process

Unable to achieve the new revenues it sought or do much more than pay for insurance expansion from its health care cost initiatives, the administration was left with no good response to concerns about the deficit that intensified over time. The result was a bewildering and frustrating series of maneuvers in two dimensions.

One involved efforts to pass budget-related legislation, such as further economic stimulus, routine appropriations, or supplemental appropriations to fund military needs. These were continually caught up in arguments that they would increase the deficit too much, so either the proposed tax cuts or spending should be reduced or it should be "offset" with cuts to other programs (the Republican preference was to rescind funds from the first stimulus).

Bills that are in some sense "must-pass" have for years tended to get ensnared in the culture of hostage-taking and creative combinations that permeates Congress. One faction will attach an unrelated idea to a bill; others may oppose the bill because of the addition; still others offer amendments designed to embarrass the administration or opposite party. Thus, for example, a supplemental appropriation in the spring of 2009 for costs of the wars in Afghanistan and Iraq was caught up in disputes about adding extra funding for the IMF, extra funding to respond to a possible flu epidemic, and closing the Guantánamo Bay prison for alleged terrorists (Rogin 2009). At the end of 2009, efforts to pass a series of stimulus measures failed, and only short-term (to the end of February) extensions of unemployment benefits and other programs were attached to the defense appropriations bill. In the spring and summer of 2010, a bill to extend some of the more routine expiring tax cuts and unemployment insurance was caught in disputes about offsets and the length of the unemployment benefits extension (Rubin and Lesniewski 2010).

In general, Republicans opposed extensions of unemployment and other benefits; House Democratic leaders and sometimes the White House tried to stimulate the economy through both tax cuts and spending; Senate Democrats usually wanted to do less than the House because they needed 60 votes to do anything; House Blue Dogs sought to scale back or offset whatever was proposed by House leaders; most initiatives failed; and so many extensions that might have been expected to be routine still had not occurred when Congress recessed for the midterm election. Deficit concerns and posturing nearly paralyzed efforts to respond further to the economic crisis—much to the opposing party's benefit.

The other set of maneuvers in response to deficit concerns involved budget process arguments. One conflict involved posturing about earmarks: provisions in legislation or the accompanying reports, through which Congress directs spending to particular beneficiaries or projects, such as hospitals, cities, defense contracts, or dredging specific ports. Republicans blasted earmarks as a form of "corruption," which fit beautifully with their broader view of government spending, even though they had greatly increased the amount of earmarks after taking over Congress in 1995, and about 40 percent of the earmarks in the appropriations bills written for FY 2009 by a Democratic Congress were Republican requests (Clarke 2009). House Democrats and the administration proposed procedures (such as revealing all requests) that were meant to defuse claims of corruption. Senate Democratic leaders tended to think the issue was a challenge to Congress's legitimate responsibilities, so resisted the anti-earmark campaign (Clarke and Epstein 2010; Epstein 2010). The administration was either too weak to resist or too tempted to echo a criticism that, after all, was the position of all administrations (which always want more power vis à vis Congress) and a good way to posture for voter support. The politics of earmarking obstructed both routine appropriations and stimulus efforts, while it could never have had meaningful effect on deficits (Cranford 2010b; Epstein 2010).

Another conflict involved rules limiting congressional discretion. Blue Dog Democrats in the House sought procedural reforms so that they could say they were enabling future budget control even as they voted for larger deficits in the short run. They especially wanted to recreate a statutory "Paygo" provision that had been in effect from 1990 to 2003, and which provided for automatic cuts to some programs if, at the end of a year, Congress had enacted legislation that raised the deficit. The president and most Democrats supported this in principle, but did not want it to apply to the baseline problems discussed above. Republicans opposed Paygo because it would apply to tax cuts as well as spending increases.

Meanwhile, Senate Democratic budget hawks, such as Budget Committee Chair Kent Conrad, believed Paygo was insufficient because it would only stop deficit increases, rather than forcing spending cuts or tax hikes. Conrad allied with Committee Ranking Member Judd Gregg (R-NH) and others to demand a Deficit Reduction Commission that would propose legislation on which Congress would be forced to vote, yes or no. The Paygo legislation on which House Democrats had agreed in February of 2009 therefore was blocked until February of 2010. At that point it was attached to an increase in the limit on the federal government's debt, as part of a wider deal about such a commission (Clarke and Vadala 2010).

The third set of process controversies involved efforts to bypass normal congressional procedures. Advocates for a deficit-reduction commission believed the deficit would be reduced if only "politics" were taken out of the equation. They argued that a bipartisan commission meeting without special interest pressure could agree on a package, and that, if forced to vote up or down on doing the right thing, Congress would be far more likely to do so. This view was especially attractive to people who distrusted the political system and to politicians who identified themselves as "centrist." At a minimum, they hoped, it would heighten public awareness of the crisis and generate proposals and momentum for change (Clarke 2010a, b).

It was hard for President Obama, who had campaigned as a person who would clean up politics, to oppose this reasoning. But a commission was resisted by legislators who felt it violated Congress's constitutional position, such as Senate Finance Committee Chair Baucus; by Republicans who worried a commission would propose tax increases; and especially by liberals who believed it could only have bad results or none at all. They reasoned that there were too many moderate Democrats who had accepted the idea of an "entitlement crisis"; that Republicans on a commission would only accept a deal that heavily emphasized spending cuts over tax increases; and so that a commission would either not report, or would report large cuts to Social Security and Medicare.

In early 2010 this led to another stalemate: budget hawk Democratic senators held an increase in the debt limit hostage, insisting on creation of a statutory deficit reduction commission, but they did not have 60 votes to add the plan to the debt bill. Instead, President Obama promised to appoint a commission by executive order. He would appoint six members, half Democrats and half Republicans, and the House and Senate Democratic and Republican leadership would each appoint three. The House and Senate Democratic leadership pledged that if the commission reported a recommendation by December 1, and it was supported by 14 of the 18 commissioners (so majorities from each party), they would schedule the report for votes in the House and Senate during a Lame Duck session of Congress (Clarke and Vadala 2010).

This timing would minimize voters' influence on legislation, because the plan would not be debated in the election and would be voted on by Lame Duck legislators. It also typified budgeting in the Obama administration's second year: maneuvering to avoid unpopularity, while postponing decisions to a future in which the administration and its allies would be in an even weaker position, unless they got lucky in the midterm election.

After the Midterms

After the election, crucial decisions about issues such as the Bush tax cuts would be made under much worse circumstances for the Democrats. The Fiscal Responsibility Commission's results compounded the difficulty.

During the controversies about creating a commission, some analysts had told more liberal colleagues that it was not such a big deal: the president would not make appointments that would create a large majority for cutting Social Security. They (we) were wrong. He appointed co-chairs of the commission, former Senator Alan Simpson and former White House Chief of Staff Erskine Bowles, who clearly believed the Social Security was unaffordably generous. He also appointed Alice Rivlin, former Director of OMB for Clinton and founding Director of CBO, a fervent budget hawk who was on the right wing among Democratic budget experts.

After the election, Bowles and Simpson released a proposal that most Democratic activists and some legislative leaders termed, in Nancy Pelosi's words, "simply unacceptable" (Calmes 2010a). It called for large cuts in Social Security and Medicare, relied much more on spending cuts than tax increases to achieve balance, set an arbitrary limit of 21 percent of GDP on total revenues as a share of GDP (which had been a conservative constitutional amendment proposal in the 1980s), and would have imposed substantial cuts on annually appropriated programs (National Commission 2010; Horney 2010). This proposal did not receive the necessary 14 votes to force a vote in Congress, but at the final meeting of the commission on December 3, 11 of the 18 members and 5 of the president's 6 appointees expressed support for it (Calmes 2010b). The votes of President Obama's appointees, and his failure to criticize the plan's details, led liberal interest groups and advocates to fear that Obama, either from conviction or weakness, was on the way to selling out the most important legislative achievement of the New Deal.[6]

Meanwhile, the economy remained in parlous condition. Advocates for the high-end tax cuts could argue that any measure that reduced demand was risky. This emphasis on maintaining demand might have seemed a bit more sincere if congressional Republicans were not simultaneously resisting extension of unemployment benefits, continuation of subsidies to states to limit layoffs, and other measures that had been part of the stimulus package. Yet the economic dangers made letting all the tax cuts expire look particularly dangerous for an administration that had just suffered one of the worst midterm election defeats in history.

This is the context in which the president on December 6 announced a deal with Republican leaders. He agreed to extend all of the 2001 and 2003 Bush income tax cuts for two years. The estate tax would not be abolished, but was cut substantially below the 2009 level for 2011 and 2012. In return, the president received a 13-month extension of unemployment benefits, continuation of some of the Recovery Act's tax credits for two years, and a temporary tax cut for business investment. The proposal also included a major new temporary tax cut: the Social Security payroll tax paid by workers would be reduced, for one year, from 6.2 percent to 4.2 percent—a $120 billion reduction in federal revenues. The entire package, as *The New York Times* reported, "would cost $900 billion over the next two years, to be financed entirely by adding to the national debt, at a time when both parties are professing a desire to begin addressing long-term fiscal imbalances" (Herszenhorn and Calmes 2010).

The administration and some of its allies could argue that, with a Republican House arriving in January, Republicans in the Senate blocking unemployment benefits, and an economy that badly needed stimulus, this deal was better than could be expected. Robert Greenstein, executive director of the Center on Budget and Policy Priorities, declared that, "Congress should approve this package—its rejection will likely lead to a more problematic package that does less for middle- and low-income workers and less for the economy" (Greenstein 2010). Yet these were arguments based on weakness. This weakness was not simply a matter of the administration not being willing to fight. Senator Baucus wanted to challenge the Republicans to block middle-class tax cuts on behalf of wealthy constituents by bringing up legislation before the election, but "many Senate Democrats . . . made it clear that with Republicans construing the White House plan as a historic tax hike, they would just as soon leave the issue until after the election" (Young, Friel, and Schatz 2010). Either way, however, the Democrats were conceding to Republican hostage-taking.

Democrats who shared the values Obama promoted so vigorously at the beginning of his administration were fearful about what could happen next. If he had caved on the upper-income tax cuts in 2010, how would he prevent further extensions before the 2012 election? Worse yet, the tax deal suggested it would be even harder than expected to address future deficits with tax increases, yet the administration was talking about the need to reduce future deficits. Even worse, in the context of a campaign against Social Security that claimed it was unaffordable and running out of money, the administration had accepted a reduction in the payroll tax, which was the program's main source of revenue. The proposal would credit the trust fund with the revenues that were not collected, but that would just add credibility to conservative claims that the trust fund was "fake," and Republicans might argue that the taxes should not be restored in 2012 (a good summary of these concerns and their sources is the National Committee to Preserve Social Security and Medicare 2010).

As this chapter was being completed, these worries about the future and disagreement with specific provisions of the deal had split the Democratic party. A closed-door caucus of House Democrats voted against bringing the package up for a vote. The president was criticizing liberals for being "purists," and liberals were saying someone with such a bad track record in bargaining should not be the one who claims to be the realist.

The compromise was enacted, as should be expected when both the president and the opposition offer the public large tax cuts. But this bipartisan compromise should not be confused with any sort of viable "move to the center," especially given the concern among both elites and independents about the deficit and debt, which the package increased. Instead, the administration had moved from attempting to create a bold Democratic party approach to the nation's problems, to using desperate short-term maneuvers and intrapartisan recriminations. It was a far cry from the promises to build a future economy on rock rather than on shifting sands.

Notes

1. For an account of the development and entrenchment of this view, see White (2003). For a good example of offhand acceptance of the conventional wisdom, see the reference to "entitlements (the deadweight sitting on the future of the economy)" in Alter 2010 (424).
2. For discussion of the origins of this view, see Savage 1990; for more on versions of anti-deficit arguments see White and Wildavsky 1991. On the George W. Bush administration's disinterest in deficits as the difference between revenues and spending, see White 2009.
3. The fiscal effects of different baselines were greater than this sounds, because fixing the AMT, if combined with extending all the Bush tax cuts, would cost another $700 billion.
4. I regret that there is no space for a discussion; much of these cuts were broadly supported by liberal and nonpartisan health policy experts.
5. This adjustment in the military spending baseline could well be criticized, but, as OMB sources told me in interviews during 2008, there is no good way to do defense baselines during a war.
6. I could not begin to summarize the anguished commentary among pro–Social Security experts and advocates at the time.

Chapter 12

The Politics of Regulation in the Obama Administration

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Federal regulations that implement President Obama's policies will likely be the showcase achievements of the last two years of his term. This is not just because of the legislation passed in the first two years, including the stimulus package, the health care reform, and the financial reform legislation, all of which will require rulemaking in some form, but because with a divided government and low support scores, he will have to command the one sector of the government over which he has control—the federal bureaucracy. This president, who has vowed to implement his policies, may have to do so through federal agencies making rules and regulations pursuant to their enabling statutes.

United States Federal regulations affect everyone in almost everything they do. For example, the electricity that lights your home and business is regulated by the Federal Energy Regulatory Commission (FERC), your water quality is regulated by the Environmental Protection Agency (EPA), your coffee by the Food and Drug Administration (FDA) and the Department of Agriculture, and your car by the International Trade Commission (import restrictions), the Occupational Safety and Health Administration (OSHA), the National Highway Transportation Safety Administration (NHTSA), and the EPA, among others.

The costs of federal regulations are high. Rulemaking can move at glacial pace, with a particular rule taking more than a decade to promulgate and defend from legal challenges, meaning regulation frequently spans several presidential