Insight

Build Back Dynamic Scoring

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Executive Summary

- In his address to Congress on April 28th, President Biden articulated a vision of a substantially expanded federal government, with attendant tax increases to finance it, but Congress will need to assess the details of this proposal, including its economic impact.
- Congress has the capacity to assess the economic tradeoffs involved in the Biden Administration's proposition by requiring congressional estimating agencies to produce a "dynamic score" – which Congress has required before, most notably of the Tax Cuts and Jobs Act.
- Congress should revive the practice of performing dynamic scores for major legislation to examine the macroeconomic tradeoffs involved, a practice that has historically chastened both advocates and detractors of policy proposals.

Introduction

In his address to Congress on Wednesday, President Biden launched a renewed sales pitch for a dramatic expansion of the federal government and provided some additional information on how those expansions would be financed. A spoil of winning the presidency is having the largest microphone, and so President Biden provided the American people a chorus of promised benefits from this expansion and a deliberate discounting of the potential downsides. The administration's sales job is straightforward: convince the American public that trillions in new spending is worth the tradeoff of trillions in new taxes and borrowing.

But to turn the promises into policy, Congress will need to pass laws, which means debating and considering the details and the tradeoffs. To aid this legislative process, policymakers will need cost estimates from the congressional estimating agencies. In its deliberations, Congress should revive the use of dynamic scoring – estimating the macroeconomic effect of legislation – to assess the tradeoffs involved in the legislation that will stem from the Biden agenda set out in Wednesday's speech.

The Early History of Dynamic Scoring

Congress is ably served by agencies that perform specialized functions for the legislative branch. In particular, the Congressional Budget and Impoundment Control Act of 1974 created the Congressional Budget Office (CBO) to provide expert, nonpartisan budgetary analysis of legislation to Congress. The Joint Committee on Taxation (JCT) was established in its original form in 1926 and provides analysis of tax policy changes. These agencies are central to modern legislating in the United States, and federal policy initiatives can live or die based on the agencies' analyses. The agencies provide Congress and the public with estimates of policies' costs, often to the consternation of the policies' advocates. Advocates of a given policy are typically quick to tout the benefits of a policy but are less interested in having to justify it on the basis of cost. The CBO and JCT make the latter analysis possible.

Policy observers are quick to point out that federal policy is more than just dollars and cents. Indeed, federal policy can be hugely consequential to the economy. Significant economic changes have significant budgetary consequences. Where Congress has formal rules and guidelines for considering the costs of legislation, it has virtually no formal rules for evaluating *economics*. This silence is probably for the best, given the relative breadth and diversity of economic viewpoints. Congress should have access to expert and nonpartisan economic analysis to inform its decisions, however.

For large, economically significant policy proposals, the CBO has been producing these types of estimates for over a decade. Since the 1990s congressional rules contemplated having analysis that considered the macroeconomic effects of legislation.[1] CBO, in conjunction with the JCT, has been performing a dynamic score of the president's budget.[2] Indeed, more recently, CBO and the JCT produced a dynamic score of the comprehensive immigration bill that ultimately passed the Senate in 2013, and the JCT produced a dynamic score of the economic effects of comprehensive tax reform proposals including that Tax Cuts and Jobs Act (TCJA) and the 2014 Tax Reform Act proposed by then-Ways and Means Committee Chairman Dave Camp.[3]

Formalizing Dynamic Scoring in Congress: 2015-2018

In 2015, the House of Representatives enacted a new rule that substantially expanded the role of dynamic scoring in the legislative process. The new House rule required that dynamic scores be produced from CBO as well as JCT for "major legislation," which was defined as policy changes that would produce budgetary effects of at least 0.25 percent of projected U.S. gross domestic product (GDP). The rule also provided that the chair of the House Budget Committee could designate mandatory spending legislation as "major" or the chair or vice chair of the JCT could designate tax legislation as "major" for the purposes of the rule.

The House and Senate enacted contemporaneous budget resolutions that instituted bicameral rules for dynamic scoring similar to the new House rule. As with the House rule, the budget resolution called for dynamic estimates for revenue and mandatory spending legislation that met the definition of "major legislation," again defined as legislation that would be projected to have a budgetary effect of at least 0.25 percent of projected U.S. GDP. The rule added a specification to include any treaty with an impact of at least $15 billion in that fiscal year to reflect the Senate's role in approving treaties. That budget resolutions allowed for the chairs of the House and Senate budget committees to designate mandatory spending legislation as "major," or the chair or vice chair of the JCT to designate tax legislation as "major" for the purposes of the rule. In the Senate, where budget enforcement rules are more consequential (in the House, majorities often waive these rules before legislation is considered), the Senate Budget committee clarified that the dynamic estimates were for informational purposes only. These rules, both the bicameral rules and the House rule, were in effect from 2015 to –2018.[4]

The Impact of Dynamic Scoring

The CBO and the JCT continue to have a robust macroeconomic estimating capability that members of Congress may tap for estimating future legislation, but the loss of formal rules suggests a diminution of the practice. This is to Congress's detriment. For years, in the run-up to more widespread use of dynamic estimates, progressives regularly criticized dynamic scoring, suggesting such estimating techniques would bias estimates in favor of tax cuts. Of course, the criticisms were often made in bad faith, such as those made by a sitting Office of Management and Budget director who conveniently ignored the fact the executive branch explicitly used dynamic scoring in estimating the effects of the president's budget.

When dynamic scoring was more widely applied after 2015, the reality of its significance in the legislation process came more into focus. Where critics suggested the estimating techniques would leave Congress with less information, as one progressive think tank argued, in actuality Congress was substantially better informed. [5] The first dynamic score performed in 2015 added more nuance to policymaking – providing policymakers with an estimate of relatively modest economic effects from a relatively modest set of policy changes. The budgetary feedback was similarly modest. Dynamic scoring was hardly the witchcraft its detractors portrayed.

In the most prolonged and contentious legislative debate in recent memory, that surrounding the TCJA, dynamic scoring revealed another benefit: adding discipline to the policy debate. The enduring value of the CBO and the JCT stem from their credibility. Their fundamental mission, to predict the future, is impossible, but with their transparent rules of the road, nonpartisan posture, and the stature of its analysts, their estimates, despite the shortcomings, are (largely) accepted by policymakers. Thus, where national policy debates are typically characterized in extremes by advocates and detractors, expert analysis reflects the nuance of tradeoffs in policymaking.

As it turns out, the reality of federal policy often falls well short of the promise. Consider the debate surrounding the TCJA. For its public advocates, the TCJA would "pay for itself" or have an outsized effect on growth. These estimates may have had some analytical basis, but they typically did not reflect the legislation before Congress, which was a consensus policy forged through the political process. It would not deliver the upper limit of theoretical growth found in textbooks cited by its advocates, but neither would it be anything like the "Armageddon" its detractors claimed. Rather, the JCT found it would have a modest, positive effect on growth. Dynamic analysis made liars out of its most exuberant supporters, who claimed it would pay for itself, as much as it took the wind out progressives' attacks that continue to this day.[6]

The Biden Administration and its allies in Congress will likely continue to contend that an expansion in government is largely free of tradeoffs. What taxes are needed to finance these expansions will be trivial in effect, its advocates suggest. When Congress considers the legislation that will turn to promise into reality, policymakers should ask the fundamental question, is the policy worth the tradeoffs? Independent analysis very similar in methodology to that employed by the CBO and JCT, commissioned by the American Action Forum, suggests the promises vastly exceed the reality. Indeed, under generous assumptions, the Biden plan fails the cost benefit test.[7] Congress would be well served to make the same assessment and decide for itself.

Conclusion

Federal policymaking is replete with overpromising and underdelivering. And this approach could hardly be surprising, given the outsized significance advocates often invest in their respective causes – whether complex tax legislation, health legislation, or other significance federal policy change. The debate shaping up around the administration's new spending and tax proposals is no different. But as the high-level talking points evolve into legislation, policymakers in Congress should look to revive dynamic scoring in evaluating major legislation.

[1] https://crsreports.congress.gov/product/pdf/R/R46233/3

[2] https://www.cbo.gov/sites/default/files/03-31-analysispresidentbudget-final.pdf

[3]http://www.cbo.gov/sites/default/files/s744.pdf, https://www.jct.gov/publications/2017/jcx-69-17/; https://www.jct.gov/publications.html?func=startdown&id=4674

[4] https://crsreports.congress.gov/product/pdf/R/R46233/3

[5] https://www.americanactionforum.org/insight/and-the-sky-didnt-fall/

[6] https://www.americanactionforum.org/insight/make-jct-dynamic-score/

[7] https://www.americanactionforum.org/insight/assessing-the-biden-promises-infrastructure-taxes-and-growth/