



# COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET

## CHAIRMEN

MITCH DANIELS  
LEON PANETTA  
TIM PENNY

## PRESIDENT

MAYA MACGUINEAS

## DIRECTORS

BARRY ANDERSON  
ERSKINE BOWLES  
CHARLES BOWSHER  
KENT CONRAD  
DAN CRIPPEN  
VIC FAZIO  
WILLIS GRADISON  
WILLIAM HOAGLAND  
JIM JONES  
LOU KERR  
JIM KOLBE  
DAVE MCCURDY  
JAMES MCINTYRE, JR.  
DAVID MINGE  
JUNE O'NEILL  
PAUL O'NEILL  
MARNE OBERNAUER, JR.  
BOB PACKWOOD  
RUDOLPH PENNER  
PETER PETERSON  
ROBERT REISCHAUER  
ALICE RIVLIN  
CHARLES ROBB  
ALAN K. SIMPSON  
JOHN SPRATT  
CHARLIE STENHOLM  
GENE STEUERLE  
DAVID STOCKMAN  
JOHN TANNER  
TOM TAUKE  
PAUL VOLCKER  
CAROL COX WAIT  
DAVID M. WALKER  
JOSEPH WRIGHT, JR.

## The Better Budget Process Initiative: Senate Budget Procedures – Prospects for Reform

August 11, 2016

# The Better Budget Process Initiative: Senate Budget Procedures – Prospects for Reform

**B**efore the Senate adjourned in July for summer recess, Senate Budget Committee Chairman Mike Enzi (R-WY) released an [outline](#) recommending changes to the current budget process. The outline includes fundamental reforms of the budget process such as establishing enforceable fiscal targets, establishing a budget concepts commission, and moving to biennial budgeting. It also includes smaller procedural changes that Congress could act upon as soon as this fall.

**This paper summarizes and explains these procedural changes, which fall under three categories:**

- **Improving consideration of budget and appropriations legislation**
- **Strengthening enforcement of budget points of order**
- **Moving toward portfolio budgeting**

Several of the proposals in Chairman Enzi's outline are similar to those we have put forward as part of our [Better Budget Process Initiative](#). We are encouraged to see progress on reforms that could improve the efficiency, transparency, and accountability of the budget process.

## **Improving Consideration of Budget and Appropriations Legislation**

Under the current process for considering the budget resolution, both parties spend most of their effort scoring political points with limited focus on the substance of the budget or thoughtfully debating alternative proposals. Members offer and vote on amendments to the budget with little or no debate. Congress rarely enacts appropriations bills on time, leading to continuing resolutions and omnibus bills that can frustrate lawmakers and the public and make government less efficient.

Chairman Enzi's outline includes several proposals to streamline and improve the process for considering budget resolutions and appropriations bills. The proposals include making the budget resolution and amendments available in advance during Budget Committee consideration, ending the practice of "vote-a-rama" by limiting amendments during Senate consideration of the budget, and setting aside time in the Senate schedule to consider appropriations bills. Reasonable limits on amendments and setting aside time for appropriations bills could help increase the prospects for the Senate completing action on budget resolutions and appropriations bills in a more thoughtful and timely manner.

## ***Changes to Rules for Budget Committee Consideration of the Budget Resolution***

The Senate Budget Committee routinely begins considering the budget resolution before publicly releasing the text. Thus, senators make statements about the budget before seeing it and the debate is limited to general political arguments, not the specific merits of the budget's substance. Senators introduce amendments throughout the markup, giving their colleagues little time for review before voting on amendments.

In Chairman Enzi's outline, he recommends making the text of the proposed budget resolution publicly available the day before Budget Committee markup and requiring senators to file amendments before the Committee begins the markup.

Making the text of the Chairman's mark for the budget resolution available the day before the Budget Committee begins markup will give senators time to review the proposed budget and engage in a more thoughtful debate on its substance. Likewise, filing amendments before markup begins or at least before the last day of debate would provide time to review the amendments and have an informed debate on the merits of the amendments.

## ***Changes to Senate Consideration of the Budget Resolution***

The Budget Act limits debate on the budget resolution and budget reconciliation legislation in the Senate to fifty hours. The time limits for debating the budget resolution and reconciliation legislation are key to their receiving privileged floor status, protecting them from the sixty-vote hurdle required to stop a filibuster and end legislative debate.

However, there is no corresponding limit on the number of amendments. As a result, debate time may expire with dozens of amendments yet to receive a vote and more amendments still being filed, many of which are "messaging" amendments intended to score political points. This means little time for senators to debate or review amendments before voting, with the messaging amendments moving senators away from a more substantive debate.

In Chairman Enzi's outline, he recommends imposing a filing deadline on amendments during Senate consideration of the budget resolution and

limiting the total number of votes permitted on amendments, evenly divided between the majority and minority. These proposals would effectively end the practice of vote-a-rama.

A filing deadline could encourage senators to offer substantive amendments that are defensible on their merits as opposed to putting a good sound bite before substance. A limit on amendments would force leaders in both parties to focus on major issues by setting priorities on which amendments are most important.

In our [Better Budget Process Initiative](#) paper, [Strengthening the Budget Resolution](#), we suggested establishing a filing deadline for budget resolution and reconciliation amendments as the Enzi outline recommends, along with a one-day layover before voting on amendments. This proposal was based on former Senator Robert Byrd's (D-WV) idea, which was discussed at a Senate Budget Committee [hearing](#) in 2009. The Byrd proposal would have required filing first-degree amendments before the 10th hour of debate and filing second-degree amendments before the 20th hour of debate. It also would have delayed considering the budget resolution by one calendar day before the final hour of debate to allow time for amendments to be printed in the record and reviewed before senators vote on them.

Chairman Enzi's outline does not indicate whether the limits on amendments would apply to budget reconciliation legislation, which is also subject to limits on debate time with no limits on amendments creating the potential for votes on amendments after debate time has expired. There may be concerns about limiting the ability of senators to amend legislation changing substantive law. Moreover, the Byrd rule and germaneness requirements have the practical effect of limiting the universe of potential amendments to reconciliation legislation. However, there is merit to applying a filing deadline for amendments to budget reconciliation legislation in order to provide time for review of the amendments, which may make substantial and potentially complex changes to laws regarding entitlement programs and the tax code.

[Strengthening the Budget Resolution](#) also proposed changing the requirements for amendments that create deficit-neutral reserve funds. We suggested requiring amendment sponsors to demonstrate that the proposed deficit-neutral reserve fund would

apply to legislation with budgetary effects. Deficit-neutral reserve funds allow the chairman of the Budget Committee to adjust their budget allocations for legislation that increases spending or reduces revenue as long they offset the deficit impact with savings elsewhere in the budget. Amendments proposing to create deficit-neutral reserve funds have effectively become “Sense of the Senate” amendments to express support for legislation that may have no budgetary effect. Restricting deficit-neutral reserve funds would significantly reduce the number of messaging amendments with little or no budgetary effect. Alternatively, limiting the number of amendments that Members of Congress can offer, as Chairman Enzi has recommended, would discourage using one of these limited amendments on a reserve fund that has little practical effect.

In addition to providing for more thoughtful and orderly consideration of the budget, filing deadlines and limits on amendments could make it more likely that the Senate considers a budget. The vote-a-rama process, which often involves hours of votes late into the night and early morning, is extremely unpopular among senators and staff. More importantly, the ability of senators to put forward partisan amendments with no time for review or debate during vote-a-rama makes consideration of the budget a headache for Senate leadership. Absent a pressing reason to pass a budget (such as the desire to provide for reconciliation legislation), Senate leadership often decides that the unpleasant process of considering a budget resolution is not worth the effort.

### *Setting Aside Time for Appropriations*

Currently appropriations bills must compete with other legislation for limited floor time for Senate consideration. As a result, the Senate often fails to consider many of the individual appropriations bills, leading to passage of omnibus bills or continuing resolutions containing appropriations bills that were never subject to debate or amendment on the Senate floor.

Chairman Enzi’s outline recommends dedicating floor time for appropriations bills between the passage of the budget resolution and the August recess. Under the proposal, the Senate would be unable to consider non-appropriations legislation, with limited exceptions, unless two-thirds of senators voted to move to other legislation. The outline does not identify exceptions to the rule but could include budget reconciliation legislation—

which would be consistent with the goal of a “budget session”—and reauthorizing programs with expired or expiring authorizations to address concerns about appropriations for unauthorized programs.

The appropriations process will inevitably generate controversy over funding levels and policy riders that will make it a challenge to pass appropriations bills in a timely manner, but setting aside floor time devoted to appropriations could help facilitate action on them and reduce the need for continuing resolutions and omnibus appropriations. In addition, tying the beginning of the floor time reserved for appropriations to adopting the budget resolution will give appropriators an incentive to help adopt a budget resolution. However, an unintended effect of this rule could be senators delaying passage of the budget resolution so they can pass other bills since non-appropriations legislative activity could come to the floor until the budget resolution passes.

### **Strengthening Enforcement of Budget Points of Order**

The budget resolution is intended to ensure that legislation considered by Congress fits within an overall fiscal framework. However, a budget resolution is only as good as the will to enforce it. Under the current process, the budget resolution sets spending and revenue levels enforced by points of order created by the 1974 Budget Act, which prohibit considering legislation that would violate these levels. Senators can waive these points of order and other major points of order in the Budget Act by a sixty-vote supermajority. Since that is the same vote threshold to invoke cloture to consider legislation, senators often see raising a Budget Act point of order as redundant. Consequently, Budget Act points of order are not significant obstacles to passage of bills that violate the budget resolution.

As a result, the Senate regularly waives or ignores Budget Act points of order. The Senate has voted to waive points of order six times for measures that cost nearly \$200 billion in the 114th Congress. The Senate passed several other budget-busting bills without a vote on waiving Budget Act points of order because senators waived points of order by unanimous consent or no Senator raised a point of order. These waivers and failures to raise points of order contributed to Congress passing legislation that added [over \\$1 trillion](#) to the debt despite adopting a budget that called for \$5 trillion in savings.

Chairman Enzi’s proposal would address the issue of routinely waiving or ignoring Budget Act points of order by tying the number of votes needed to waive a point of order to the size of the budget violation. While this may seem like an arcane change, it could have a major impact on consideration of bills on the floor and enhance the credibility and relevance of the budget process as well as strengthen fiscal discipline.

Specifically, Chairman Enzi’s outline calls for automatic waiver of insignificant violations and a two-thirds vote threshold for major violations. These changes would apply to points of order under section 302 of the Budget Act, which enforces Budget Committee spending allocations, and section 311, which enforces aggregate spending and revenue set by the budget. The changes could also apply to the Senate’s pay-as-you-go rule and the Senate’s long-term deficit point of order, which prohibits legislation from increasing the deficit by more than \$5 billion in any of the four decades after the ten-year budget window.

Ideally, making it harder to waive significant Budget Act points of order will encourage Congress to honestly account for the costs of policy changes it intends to consider in the budget resolution. At a minimum, the change will make it harder to violate the budget.

### ***Automatic Waiver of De Minimis Budget Act Violations***

The outline suggests that the Senate automatically waive “de minimis” violations of the Budget Act without a vote. The outline does not specify a threshold for classifying a violation as de minimis, but it could potentially apply to violations identified by the Congressional Budget Office as having an insignificant cost of less than \$500,000. Waiving points of order for small or incidental costs will alleviate frustrations about senators blocking legislation for having trivial costs. Automatically waiving minor violations could restore respect for the budget process by reversing the disposition that points of order are a nuisance and not an indication that legislation is fiscally irresponsible. That in turn could encourage senators to take points of order for significant violations more seriously.

### ***Enhanced Supermajority Vote to Waive Major Budget Act Violations***

Chairman Enzi’s outline suggests requiring a two-thirds vote to waive Budget Act points of order for significant spending increases or revenue reductions that violate the budget resolution. The outline does not specify a threshold for significant Budget Act violations, but it could be the \$5 billion threshold in the Senate’s long-term deficit point of order. Requiring a two-thirds supermajority vote to waive the Budget Act for major violations would make the discipline imposed by the budget resolution more meaningful. It is noteworthy that Chairman Enzi would apply this higher threshold to legislation that reduces revenues below or increases spending above the level set by the budget resolution.

Importantly, the additional obstacle to considering legislation imposed by the two-thirds threshold would only apply to legislation that violates the budget resolution by a significant amount. If the budget resolution is to be a meaningful document imposing fiscal discipline, it should also be harder to pass legislation that violates the budget resolution than to pass legislation that complies with it. If Congress wishes to increase spending or reduce revenues relative to current law, it should account for the costs of doing so in the budget resolution.

### ***Other Potential Reforms for Budget Act Points of Order***

[Strengthening the Budget Resolution](#) contained two additional reforms of points of order that would complement the proposals put forward by Chairman Enzi. We suggested requiring the Budget Committee to publish a budget compliance statement in the Congressional Record that identifies the amount and nature of any Budget Act violations in legislation before it is considered. We also suggested excluding waivers of the Budget Act from global waivers of all points of order and automatically requiring a vote on any Budget Act points of order instead of requiring a Senator to raise them.

Publicly identifying Budget Act violations and requiring a vote to waive them would bring greater transparency and accountability to the process. Senators often fail to raise Budget Act points of order because they are unaware of the violation or are unwilling to stand up to raise the point of order. Budget compliance statements would ensure that senators (and the public) are aware of Budget

Act violations before considering legislation. Eliminating enforcement of points of order against legislation with de minimis violations would limit the requirement for an automatic vote on waiving the Budget Act to more significant violations.

While Chairman Enzi's proposals would only apply in the Senate, Representative Jim Renacci (R-OH) has put forward a proposal in the House of Representatives to strengthen the enforcement of Budget Act points of order by making it more difficult to waive them in the House. Renacci's [legislation](#), the Budget Enforcement Awareness Resolution, would require the House Rules Committee to specify which budget-related points of order it waives by a rule for considering legislation, instead of including them in a blanket waiver of all points of order. The bill allows members to introduce a privileged motion to strike the waiver of any Budget Act point of order. With a majority of members supporting the motion to strike, the House would reinstate the point of order and a member could invoke it to keep the legislation from moving forward until the House addresses the Budget Act violation.

This bill would effectively require that a majority of the House of Representatives explicitly approves waivers of the Budget Act on votes devoted solely to that subject. Although the exact procedures are different, the concept of requiring a separate vote on waiving specific points of order is similar to the procedures already in place under the Unfunded Mandates Act.

The provisions of Renacci's Budget Enforcement Awareness Resolution would apply to the points of order for violating spending and revenue levels in the budget resolution that Chairman Enzi's proposal addresses. Renacci's bill would also apply to the House "Cut-GO" rule that prohibits considering legislation increasing net mandatory spending, the point of order against considering legislation affecting spending or revenues before Congress adopts a budget resolution, and the point of order against considering legislation within the Budget Committee's jurisdiction that has not been reported by the Budget Committee.

## Moving Toward Portfolio Budgeting

It is difficult to determine the total resources devoted to a particular policy goal because the goal often requires numerous spending and tax provisions spread among various congressional committees

and subcommittees. Committees silo oversight and review of government programs based on their jurisdiction, leading to duplicative programs within a policy portfolio and poor coordination between programs. In addition, there is no formal process for considering the interaction between the spending and tax measures (also known as tax expenditures) needed to reach policy goals, or evaluating the most effective approach to get there.

Chairman Enzi's outline proposes giving the Senate Budget Committee authority to create subcommittees that review all budgetary resources – spending and tax expenditures – devoted to a particular policy portfolio. The subcommittees would determine the effectiveness of policies within their portfolios and identify duplication and ineffective programs. The subcommittees would not have legislative authority to make changes in spending or tax provisions, but their findings would inform the budget resolution.

This proposal is a modest first step toward portfolio budgeting. If Chairman Enzi's outline proves effective, the Senate could authorize the Budget Committee to instruct other committees to eliminate ineffective and duplicative programs or tax expenditures within their policy portfolios. The Senate could also create a special legislative committee with authority to report legislation that changes spending and tax provisions within a policy portfolio across current committee jurisdictions.

## Conclusion

Budget process reforms will not solve our fiscal challenges and cannot overcome all of the political and legislative obstacles to a smooth, functioning budget process. However, the reforms suggested by Chairman Enzi would be productive steps toward creating a more effective budget process that provides for a more thoughtful and effective debate with greater transparency, accountability, and discipline.