The Committee for a Responsible Federal Budget

The Budget Act at 40:
Time for a Tune Up?

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Introduction

Forty years ago, President Nixon signed the Congressional Budget and Impoundment Control Act of 1974 ("The Budget Act") into law, establishing the modern budget process and institutions. Enacted to settle ongoing clashes between the executive and legislative branches, the Budget Act established procedures and institutions to allow Congress to establish its own budget priorities independent of the executive branch and provide a framework to guide and coordinate legislation affecting spending and revenues within overall budgetary limits.

At first, the new budget process established by the Budget Act gave Congress a stronger framework with which to budget and govern much more effectively. But after 40 years, the Budget Act is starting to show its age.

There is a growing consensus that the budget process is broken. After functioning relatively well for more than two decades, Congress has increasingly moved to dealing with budget issues on an ad hoc basis. Congress adopted an annual budget resolution, approved by both chambers, each fiscal year from 1976 through 1998. Since then, however, there have been eight fiscal years in which Congress has not approved a budget resolution. Furthermore, Congress has increasingly relied on temporary patches to fund parts of the federal government rather than full-year appropriations.

Statutory deadlines throughout the budget process are regularly ignored. Budget resolutions are rare. Fiscal controls that are in place are routinely circumvented, waived, or ignored. Temporary policy fixes, often involving gimmicks, are legislated at the last minute. Congress remains preoccupied with the next crisis or deadline, while the majority of spending and tax policies are on autopilot, leading to a system where our national priorities are neither fully thought out nor fully funded.

Not only has Congress not complied with the Budget Act, but the Budget Act has not kept up with Congress and the changing nature of spending programs and the tax code. Items such as emergency spending, government-sponsored enterprises, credit programs, tax expenditures, budget baselines, and temporary provisions all impose challenges to sound budgeting under our current practices. The country's substantial long-term challenges underscore the problems with the budget process, as an increasing portion of the budget is on autopilot and continues to grow at an unsustainable rate that threatens long-term fiscal sustainability.

To be sure, lawmakers have made some improvements to the budget process and created new rules for fiscal responsibility – including the establishment of pay-as-you-go laws, discretionary spending caps, and a host of other rules. But the process is increasingly outdated and overly complicated, and Senate and House rules and points of order have merely been layered on top of a statutory process that few understand.

Reform is needed, but deciding how to reform the process to make it work better first requires understanding the problems and flaws with the current system. This paper aims to outline those issues.

Main Elements of the Congressional Budget and Impoundment Control Act of 1974.

- Created the House and Senate Budget Committees, with responsibility to develop and enforce annual budget resolutions.
- Created the Congressional Budget Office to provide Congress with independent, nonpartisan budgetary information and analysis.
- Specified the timetable and procedures of the congressional budget process as well as the required contents of budget resolutions.
- Imposed new controls on entitlement legislation and contract and borrowing authority.
- Provided for enforcement of spending and revenue levels set in budget resolution for consideration of legislation.
- Changed the start of the fiscal year from July 1 to October 1.
- Made changes affecting the President's budget, program evaluation by the Government Accountability Office, and the availability of budgetary information.
- Established new procedures for impoundment control.

Problem: Lack of Transparency

The current budget process – both on paper and in reality – suffers from a number of problems and flaws. Broadly speaking, the major issues fall into one of three areas: lack of transparency, lack of accountability, and lack of focus on the long-term budget trajectory.

Ideally, budgets should be understandable to the public and budget deliberations should reflect a discussion of Americans' priorities for government. Too often, lawmakers and the public do not have the budgetary information they need to make wise decisions, and the budget process often does more to confuse than to inform. This is true for a number of reasons.

Multiple Budget Presentations

A key recommendation of the 1967 President's Commission on Budget Concepts (created by President Johnson) was to end the use of multiple budget presentations (such as the administrative budget, consolidated cash budget, and national income accounts), the deficiencies of which impaired comprehensive policymaking, and to instead adopt a unified budget presentation. Under the unified budget that is still in use today, all federal funds and trust funds are included in a single document.

Despite having a unified budget in place, policymakers still grapple with multiple budget presentations: on-budget vs. off-budget and current law baselines vs. current policy baselines. These different presentations create confusion among policymakers and the public about the budget outlook and impact of tax and spending legislation. The balkanization of the budget through trust funds for individual programs with differing rules and treatment in budget presentations creates additional complexity and confusion.

Confusing and Overlapping Spending Categorizations

The budget process has established overlapping and conflicting categorizations of government spending which create confusion and limit the ability of Congress to have a meaningful debate about budget priorities. Discretionary and mandatory spending are sorted by program into budget functional categories (Function 050 for defense, Function 400 for transportation, for example). The budget resolution uses these functional categories to show how spending is divided among various national priorities. However, the Appropriations Committee divides spending for discretionary programs among twelve subcommittees (known as 302(b) allocations) which do not correspond to the budget functions used in the budget resolution (see Table 1). The appropriations allocations are ones that generally correspond with the various departments and agencies. As a result the debate and decisions regarding budget priorities reflected in consideration of the budget resolution often have little bearing on how spending is actually divided in the legislative process.

Further complicating the ability to understand how policymakers have allocated spending, discretionary spending is also divided into defense and non-defense categories for purposes of enforcing statutory spending limits, which do not correspond to the allocations for individual appropriations bills. Spending from the Highway Trust Fund creates additional unique challenges, since contract authority is classified as mandatory spending within the jurisdiction of the authorizing committees, while the actual outlays are classified as discretionary spending under the control of the appropriations committees.

Figure 1: Overlap Between Budget Functions and Appropriations Subcommittees

Budget Functions \ Appropriations Subcommittees	Commerce, Justice, Science	Financial Services and General Government	Labor, HHS, Education	Homeland Security	Trans., HUD	Agriculture	Interior, Environment	Energy and Water	Legislative Branch	Military Con., VA	State, Foreign Operations	Defense
Administration of Justice	✓	✓	✓	✓	✓							
General Government	✓	✓	✓		✓		✓		✓		✓	
Health	✓	✓	✓			✓	✓					
Education, Training, Employment and Social	✓	✓	✓				✓		✓			
Natural Resources and Environment	✓	✓		✓		✓	✓				✓	
National Defense	✓	✓		✓				✓				✓
Transportation	✓			✓	✓				✓			
Commerce and Housing Credit	✓				✓	✓						
General Science, Space and Technology	✓							✓				
Undistributed off. Receipts	✓											
Income Security		✓	✓	✓	✓	✓				✓	✓	
Allowances		✓	✓	✓	✓		✓	✓		✓		
Community and Regional Development		✓		✓	✓	✓	✓	✓				
Veterans Benefits and Services			✓							✓		✓
Medicare			✓									
Social Security			✓									
Energy						✓		✓				
Agriculture						✓						

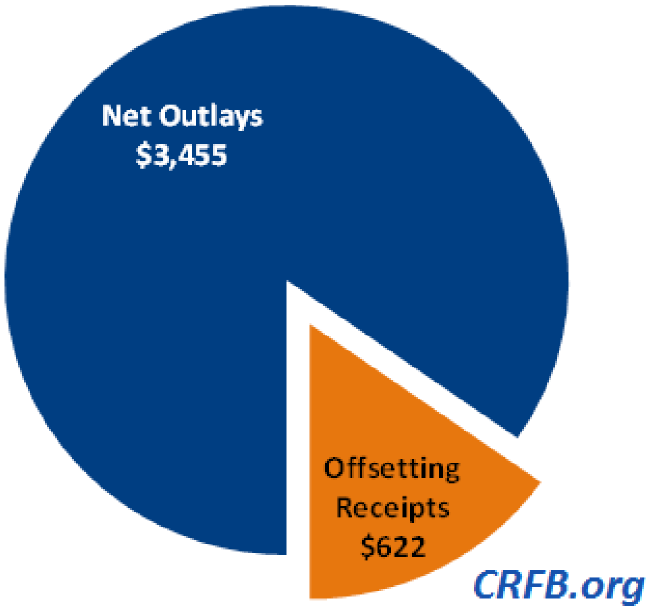
Definitions of Spending Obscure the Size and Composition of Government

Among the most important numbers reported in the budget are those showing the total level of spending and taxes, as well as spending and revenue for various priorities and functions of government. Ideally, these numbers should help the public understand the size and composition of government relative to the economy, but current budget classifications and rules unfortunately often obscure rather than inform.

For example, a huge portion of government spending comes in the form of "tax expenditures" which are counted as negative revenues rather than spending for budgetary purposes, even though many of these tax breaks serve the same function and purpose of spending programs. Last fiscal year, the federal government provided roughly $30 billion in support of higher education through tax credits and other provisions in the tax code, nearly equal to spending on Pell Grants, but those costs are not reflected in budgetary totals for spending on higher education. Similarly, the tax code subsidized health insurance through the tax exclusion for employer-sponsored health insurance at a cost of $248 billion in fiscal year 2013, nearly as much as the $265 billion the federal government spent on Medicaid, but those costs are not reflected in health care spending totals.

A similar situation arises with user fees and other collections, which are counted as "negative spending" and net against other government outlays. For example, the Food and Drug Administration is reported to spend about $2.7 billion in 2014 – but in reality they spend $4.5 billion with 40 percent of that offset with fees. The Appropriations Committee also relies on savings from changes in mandatory programs (CHIMPs) – often simply delaying spending for a year – to offset discretionary spending above spending limits, obscuring the actual amount of discretionary spending approved by Congress.

Figure 2: Congressional Budget Process



Gross outlays were $4.1 trillion in 2013, 18 percent bigger than the commonly reported $3.5 trillion figure.

Source: OMB

Issues also arise when trying to account for some of the more complicated government interactions with the economy that have developed and increased over the last four decades. The budget concepts and rules that govern presentation of the budget and evaluation of fiscal impacts of legislation are based on the 1967 Budget Concepts Commission, These baseline rules were last amended in 1997. Budget scorekeepers attempt to apply these concepts and rules to new and changing government activities and legislative practices, but many technical issues regarding budget concepts and scoring raise policy questions that should be addressed by policymakers. Budget scorekeepers have raised concerns regarding the proper treatment of government assistance through loans and loan guarantees, government sponsored enterprises (GSEs), the various actions taken by the federal government in response to the financial crisis and other explicit or implicit guarantees that policymakers should resolve to avoid confusion and potentially misleading accounting.

Other examples abound for how spending and revenue levels do not always present their true size or composition. The proliferation of "temporary" tax and spending policies that are routinely extended, different assumptions about spending from government trust funds when they are exhausted, assumptions regarding supplemental spending for military operations and disaster relief, and other issues also raise technical challenges surrounding baseline and scoring rules that policymakers should address.

Problem: Lack of Accountability

The budget process should provide for accountability in budget decisions and effective enforcement of whatever budget goals are agreed to. The complexity of the process and proliferation of gimmicks often allow policymakers to circumvent budget rules.

Missed deadlines

The Budget Act contains a schedule of statutory deadlines for the budget process, including dates by which the President's budget is released, the Budget committees report their budget resolutions, and Congress completes a budget resolution. The schedule is written in law to try and ensure an orderly, thorough budget deliberation process. There are no penalties for missed deadlines.

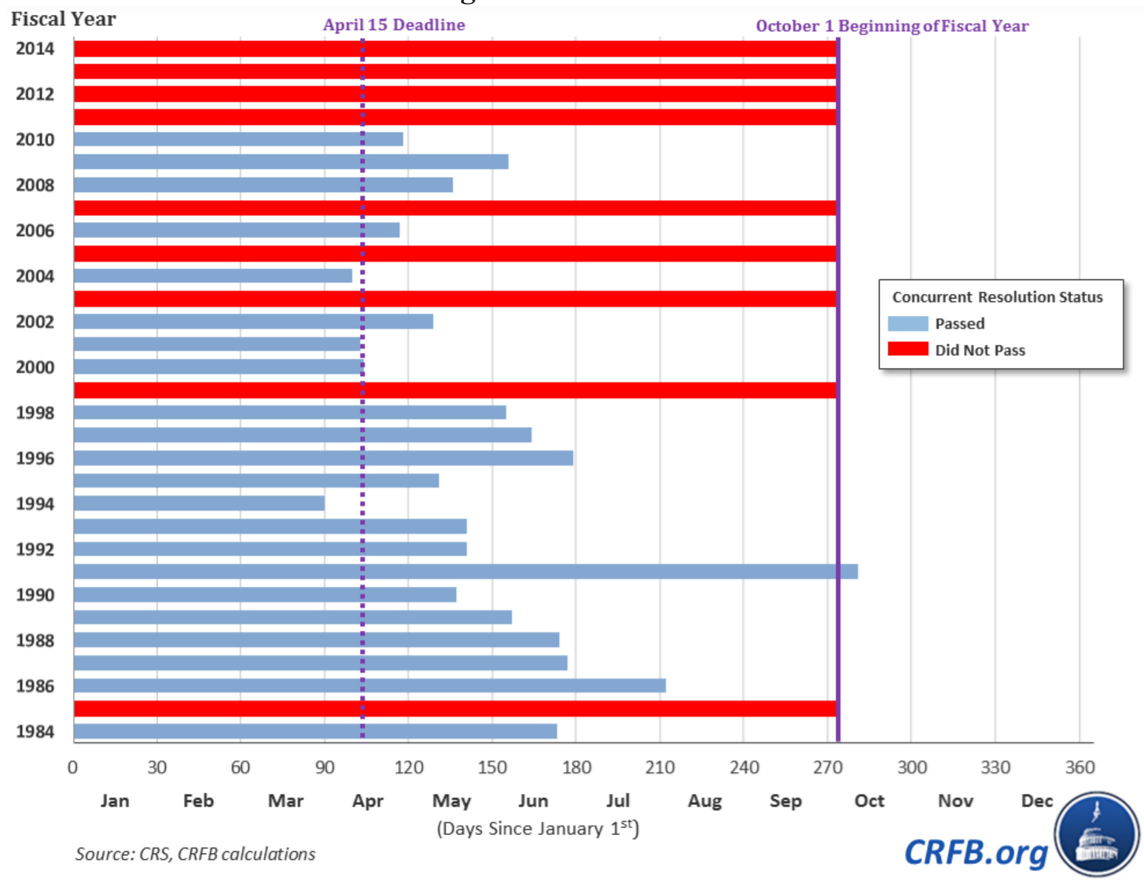
As an example, the President is supposed to submit his budget to Congress by the first Monday in February, and Congress is supposed to have completed a concurrent budget resolution by April 15th. Yet, in the last 30 years, the President has met this deadline only 19 times and Congress has met it only four times. Indeed, in nine of those years, Congress failed to adopt a concurrent budget resolution at all – and in years it has passed one, it has been completed an average of 43 days late.

A similar phenomenon has occurred with appropriations bills, which are almost never passed on time. Often, policymakers are not able to pass new appropriations bills before the prior year funding lapses, and instead rely on "continuing resolutions" to more or less extend the prior year's

Figure 3: Congressional Budget Process

Congressional Budget Process Timetable	
Deadline	**Action to be completed**
First Monday in February	President submits budget to Congress
February 15	CBO submits report on economic and budget outlook to Budget Committees
Six weeks after submission of President's budget	Committees submit reports on views and estimates to Budget Committees
April 1	Senate Budget Committee reports budget resolution
April 15	Congress completes action on budget resolution
May 15	Annual appropriations bills may be considered in the House
June 10	House Appropriations Committee reports last regular appropriations bill
June 15	Congress completes action on reconciliation legislation (if required by budget resolution)
June 30	House completes action on annual appropriations bills
July 15	President submits mid-session review of his budget to Congress
October 1	Fiscal year begins

Figure 4: Tardiness of Concurrent Budget Resolutions



funding decisions. Over the last three decades, the government has operated under a continuing resolution about 16 percent of the time.[1]

Unfortunately, when deadlines are missed, the result is often ad hoc processes – and sometimes worse. Government agencies are forced to operate under temporary funding through continuing resolutions for several months, with final decisions about funding levels made in omnibus appropriations bills that allow little opportunity for thoughtful consideration of spending decisions. Policy decisions are implemented retroactively, with businesses and individuals unable to plan around government action. And sometimes, debt ceiling standoffs and government shutdowns disrupt economic growth and important government priorities, while undermining the public's confidence in the system.

Failure to Implement and Enforce Budget Plans

Congressional budget resolutions are intended to establish an overall fiscal framework for consideration of legislation throughout the year. With an overall framework, policymakers can then recognize the tradeoffs between competing priorities and ensure the costs of any legislation fit within this framework. It is reasonable to assume that if legislators supported a budget resolution, they ought to be willing to vote for legislation implementing the policies assumed in the budget and enforce the limits set by that budget resolution. But even in cases where

[1] To account for full and partial continuing resolutions, this calculation uses Congressional Quarterly's "bill days" metric. This measures the number of days continuing resolutions have lasted for each appropriations bill.

budget resolutions are produced, they are often political documents that lawmakers never intend to implement or enforce.

In recent years, the House has adopted budget resolutions that claim to balance the budget over the course of ten years. However, those budgets were missing reconciliation instructions to force action on the policy changes assumed in the budget resolution, that were necessary to achieve savings to reach the target of a balanced budget. Likewise, recent budget resolutions in the Senate claim substantial deficit reduction from revenue increases, but lacked specific assumptions or agreement about how taxes should be increased. Budget assumptions such as "savings from reducing waste, fraud and abuse" and "savings from closing tax loopholes" and other substantial unspecified savings have made budget resolutions less connected to the reality of the legislative process.

Congress routinely considers legislation with costs that violate limits set in the budget resolution or other legislation establishing budget limits provided for by the Budget Act, often by significant amounts. Despite strong bipartisan support in passing the Ryan-Murray Bipartisan Budget Act, which established budget limits for fiscal years 2014 and 2015, Congress has repeatedly considered legislation violating those limits. The House and Senate have voted to waive budget rules to consider legislation extending expired tax breaks, which would reduce revenues well below the revenue floor set by the Ryan-Murray budget agreement. The Senate has voted to waive the budget rules for numerous bills increasing mandatory spending, most notably legislation dramatically increasing spending for veterans' health care. Of course, there are good reasons why a budget rule waiver might be necessary in some circumstances, such as in a true emergency, but waivers have become routine and too often treated as a vote on the substance of legislation rather than enforcing budget rules. Routinely waiving budget rules to pass legislation with costs that were not accounted for in the budget makes the overall fiscal goals and choices made in the budget resolution increasingly irrelevant.

Evasion of statutory budget enforcement

The experience with the discretionary spending caps and PAYGO requirements originally enacted as part of the 1990 Budget Enforcement Act demonstrated that when these statutory enforcement rules were taken seriously by lawmakers, they were effective in enforcing fiscal discipline. The emergence of budget surpluses in the late 1990s caused policymakers to begin ignoring and evading these limits, and they were allowed to expire in 2002. In 2010 Congress enacted legislation re-establishing statutory pay-as-you-go (PAYGO) requirements, which required legislation increasing mandatory spending or reducing revenues be offset by corresponding reductions in mandatory spending or revenue increases. In 2011, Congress reinstated statutory limits on discretionary spending in place as part of the Budget Control Act. Unfortunately, Congress routinely finds ways to circumvent or avoid these limits through liberal use of emergency designations, budget gimmicks and waivers.

The discretionary spending limits established by the Budget Control Act of 2011 included exemptions for spending related to the global war on terror (also referred to as Overseas Contingency Operations or OCO) and emergency needs. There is a sound rationale for funding operations in Iraq and Afghanistan separate from the regular budgets for defense and international affairs and for exempting spending for true emergencies from budget enforcement. However, neither the Budget Control Act nor any subsequent legislation included enforceable criteria for the use of these exemptions. As a result, Congress is increasingly using these designations to fund items that should be funded through regular appropriations subject to discretionary spending limits.

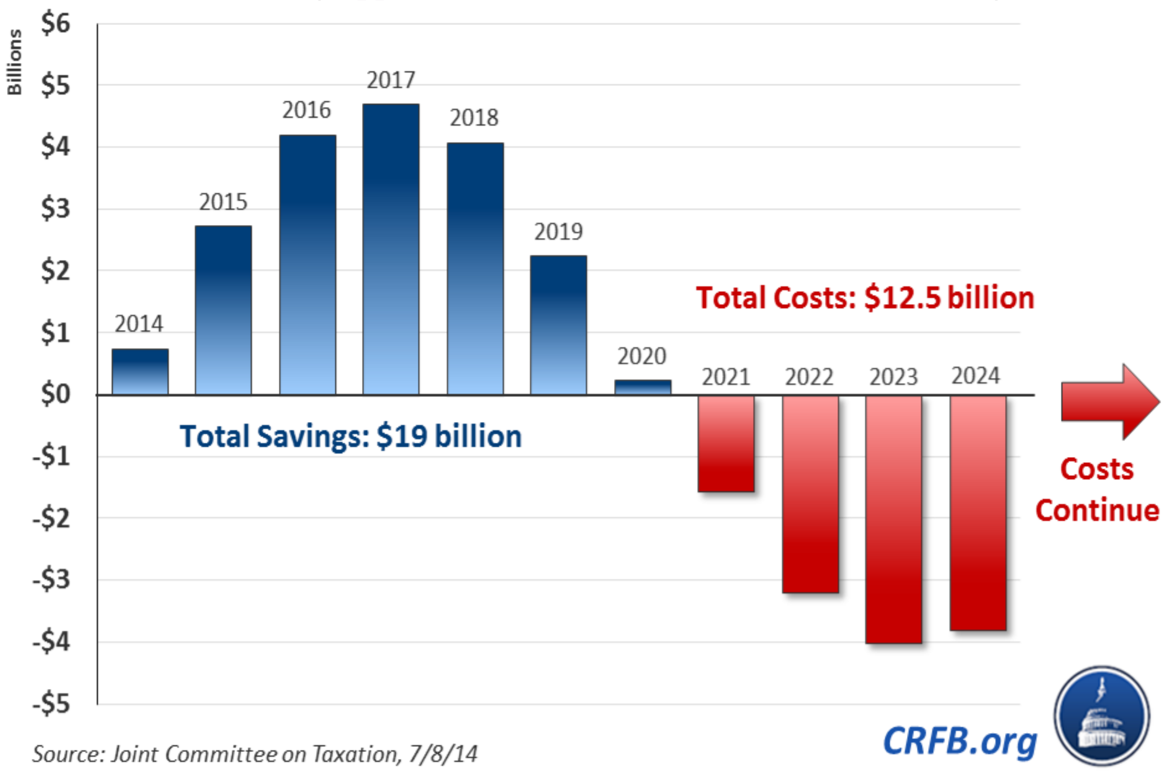
Congress has also used the emergency designation to exempt mandatory spending and tax cuts from statutory PAYGO enforcement. But increasingly, lawmakers simply slip language into legislation increasing mandatory spending or reducing revenues completely exempting the costs from PAYGO without even attempting to justify the costs as meeting an emergency need.

Even when Congress complies with budget enforcement rules, it often does so by relying on budget gimmicks that produce offsetting savings on paper but do not achieve any real savings and, in some cases, result in long-term costs. These budget gimmicks exist in many forms including double-counting savings, using phantom savings from reducing spending that was never going to happen, relying on timing shifts that allow policymakers "pay for" the costs of legislation over the budget window at the expense of higher future deficits, among others. For example, a popular "offset" included in several bills this year is so-called "pension smoothing" which results in increased revenues over the first few years of the budget window followed by a corresponding reduction in revenues that occurs primarily outside the budget window. Even when gimmicks are exposed, they are usually given a wink and a nod because alternative, non-gimmicky solutions are considered too politically difficult. Other legislation has shifted the timing of sequestration so that the savings would occur within the ten-year budget window in order to provide an offset on paper even though it would not achieve any new savings.

Failure to account for increases in debt and interest spending

The budget process should involve decisions about how much to spend, tax, and borrow. The level of debt and its associated interest owed is a function of the policy decisions made during budget deliberations. But Congress does not have to account for the impact of legislation on the debt or interest spending when the legislation is adopted.

Figure 5: Pension Smoothing Appears to Save Because Costs are Outside Budget Window



Under current budget rules, legislation which spends money in year one and reduces spending by an equivalent amount in year 10 year considered deficit neutral, even though the accumulation and compounding of interest means it will add to the debt overall.

At the same time, the decisions made in the budget process and consideration of tax and spending legislation which result in increases in the debt are completely disconnected from legislation to increase the statutory debt limit. Although consideration of legislation increasing the debt limit is often accompanied by rhetoric about the need to deal with deficits, they are considered well after the policy decisions that create obligations requiring an increase in the first place. Lawmakers can vote for policies which result in increased debt without taking responsibility for that debt, and then oppose legislation increasing the debt limit to accomodate the debt incurred as a result of those policies. Consequently, the debt limit is an ineffective tool for holding lawmakers accountable or enforcing fiscal discipline.

Problem: Lack of Long-Term Focus

The government's largest fiscal challenges are not over the next year or next decade, but over the long-run. As the baby boomer generation retires, the population ages, health care costs continue to grow, and interest costs compound, the federal debt is scheduled to grow unsustainably. Indeed, under CBO's current law projections, debt levels will be relatively stable (albeit high) at 74 percent of GDP through 2018, but then begin to rise, exceeding the size of the economy by 2038. Under CBO's alternative projections, the situation is far worse and debt will reach 158 percent of GDP by that year.

Unfortunately, there is little political benefit for politicians who pursue long-term reforms. And rather than push against that reality, the current budget process reinforces it in a number of ways. The budget process encourages lawmakers to evaluate policies based on the ten-year score of legislation, often at the expense of the long-term costs or benefits of the policy.

Overreliance on ten-year budget windows for scoring and analysis

Analysis of the budgetary effects of legislation and enforcement of budget rules primarily relies on a ten-year budget "window," examining the impact of legislation over the first ten fiscal years after the legislation is considered. While ten-year estimates often provide a good picture of the budgetary effects of legislation, there are many cases where they do not.

Often, lawmakers exploit the use of ten-year budget windows to hide the true cost of legislation or to make it appear legislation is saving more than it will in a steady state. In addition, the reliance on the ten-year window causes policymakers to undervalue policies that could lead to significant savings over the long-term but produce less within the first decade.

Insufficient enforcement of long-term fiscal goals

Neither statutory PAYGO nor discretionary caps account for the effect of legislation on the long-term budget window. Few other mechanisms exist to enforce long-term fiscal discipline. As a result, policymakers see little consequence for increasing, and little reward for reducing long-term deficits.

To be sure, there are a few provisions in current budget enforcement rules regarding long-term costs of legislation – most notably the point of order against legislation increasing long-term spending and the prohibition against policies increasing the deficit beyond the ten-year budget window for reconciliation. However, the exploitation of the budget window to comply with budget rules and hide the true cost of legislation highlights the need for stronger restrictions on the ability of Congress to pass legislation which increases long-term deficits.

Excessive focus on short-term discretionary budget obscures long-term fiscal challenge

The current budget process focuses on incremental changes to current policies and fails by focusing primarily on "discretionary spending," the money that Congress must appropriate annually to run federal agencies. However, this category is only about one-third of all federal spending. A full 60 percent of government spending goes to "mandatory" programs (the remaining spending goes toward interest), and that portion of the budget is growing rapidly. While some mandatory spending programs, like farm subsidies, are reviewed regularly, the largest programs – including Social Security, Medicare, and Medicaid – are effectively on autopilot.

The current budget process does provide for reconciliation legislation which uses an expedited process to make changes in permanent law for mandatory spending and the tax code. However, this process has tended to focus on incremental changes to meet ten-year savings targets and has not been used to pursue the structural changes necessary to make these programs financially sustainable. Moreover, recent budget resolutions that called for major changes in entitlement programs did not utilize the reconciliation process to require action on legislation to achieve the savings assumed in the budget.

As a result, Congress may spend substantial energy deciding whether to increase education spending by $2 billion or $4 billion per year, while allowing Social Security spending to increase by nearly $40 billion annually with nearly no discussion or review.

Conclusion

Reforming the budget process is not a substitute for the political willpower needed to make difficult but fiscally responsible choices. Any budget process will only be truly successful and fiscally disciplined if policymakers abide by and enforce the procedures and rules in place. Nonetheless, an effective budget process can be an important tool to promote fiscal discipline and bring greater transparency and accountability to budgetary decisions. Moreover, reforms to update and improve the budget process could help strengthen its credibility among policymakers, leading to greater compliance within the new framework.

Past Congresses and Presidents recognized that outdated and ad hoc processes hampered good decision-making. Policymakers today have strayed from a process that worked well for years, and their current ad hoc methods are again resulting in sloppy decision-making. It is time to reassess the budget process and make changes.