

Federal Budget Process Reform—An Overview

The Context of Budget Process Reform

The federal budget process is rooted in constitutional mandates, statutory requirements, House and Senate rules and practices, and administrative directives.

Thus, there are several avenues through which Congress can change the various elements of the budget process.

In some years, comprehensive changes were made in the budget process through statutes enacted by Congress and the President. The Budget and Accounting Act of 1921 established the executive budget process, the Congressional Budget Act of 1974 created the congressional budget process, and the Balanced Budget and Emergency Deficit Control Act of 1985 and the Budget Enforcement Act (BEA) of 1990 imposed additional budget controls on a temporary basis.

In other years, such as 1987, 1993, and 1997, existing budget process statutes were modified in a less comprehensive fashion and extended for limited periods. At other times, Congress and the President enacted statutes changing selected aspects of the budget process; the Line Item Veto Act (of 1996) is one example.

Finally, in every Congress, the House and Senate have modified existing rules and practices in the budget process and sometimes instituted new ones. Because nearly every committee of the House and Senate has jurisdiction over legislation with a budgetary impact, interest in the budget process and proposals to change it radiates throughout both chambers.

Changes in the budget process may take the form of freestanding legislation (e.g., the Line Item Veto Act) or may be incorporated into other budgetary legislation, such as acts raising the debt limit (e.g., the 1985 Balanced Budget Act) or implementing reconciliation instructions (e.g., the BEA of 1990). Budget process changes also may be included in the annual budget resolution or other House and Senate resolutions.

Congressional Budget Resolution and Reconciliation. The Congressional Budget Act of 1974 requires the House and Senate to adopt a budget resolution each year, setting forth aggregate spending and revenue levels, and spending levels by major functional categories, for at least five fiscal years. The budget resolution, which is a concurrent resolution and therefore does not become law, provides an overall budget plan that guides congressional action on individual spending, revenue, and debt-limit measures. The 1974 act includes an optional reconciliation procedure that provides for the development and consideration of revenue, spending, and debt-limit legislation to carry out budget resolution policies; enforcement of budget resolution policies also occurs by means of various points of order that may be raised on the floor. Budget resolutions and reconciliation measures are considered under expedited procedures in both chambers.

Some Members of Congress, as well as the President, have argued that the budget resolution would be more effective in enforcing budget policy by making it a joint resolution requiring the President's approval. A joint budget resolution would directly involve the President in congressional actions on the budget early in the process. If the President and Congress reach an impasse on a joint budget resolution, however, some are concerned that action on spending and revenue bills may be significantly delayed. The expedited features applicable to the consideration of budget resolutions and reconciliation measures are a particular concern in the Senate, which often operates under "extended debate," where legislation may be considered without constraints on debate time or the offering of nongermane amendments.

The Senate also controls reconciliation legislation by a device known as the Byrd rule (which is Section 313 of the 1974 act). Under the Byrd rule, which prohibits the inclusion of extraneous matter in reconciliation legislation, a Senator may raise a point of order against a provision that meets any of the six definitions of extraneous matter specified in the 1974 act. While the Byrd rule has been very effective in excluding extraneous matter from reconciliation measures, some assert that the rule unduly limits the flexibility needed to formulate effective legislative policies and disadvantages the House in conference negotiations with the Senate on such legislation.⁷

As mentioned, Congress enforces budget resolution policies through points of order on the floor of each chamber during the consideration of budget legislation. Points of order, however, are not self-enforcing; a Member must raise a point of order on the floor. In addition, points of order under the 1974 act may be waived or set aside by unanimous consent. In the Senate, a motion to waive most Budget Act points of order requires a three-fifths vote (60 Senators if no seats are vacant). In the House, points of order may be waived by a special rule reported by the Rules Committee. Therefore, points of order under the 1974 act may be waived by a simple majority. Some argue that a super-majority vote should be required to waive Budget Act points of order in the House, to make it more difficult to consider legislation that would violate the policies set forth in the budget resolution. Others, however, argue that a super-majority threshold to waive Budget Act points of order would obstruct the will of the majority in the House.

Annual Appropriations Process. Discretionary spending, which amounts to about one-third of federal spending, is provided each year in regular, supplemental, and continuing appropriations acts. Discretionary spending funds most of the routine operations of federal agencies.

When a regular appropriations act or a continuing resolution is not in place after the start of the fiscal year on October 1, an agency does not have the legal authority to incur obligations in order to function and must shut down, resulting in the furlough of federal employees and disruptions in service. To prevent a government shutdown (or the threat of one) due to the expiration of funding, some Members have proposed establishing an automatic continuing resolution. An automatic continuing resolution would provide an uninterrupted source of funding for discretionary activities in the event one or more regular appropriations acts are not enacted by the start of a new fiscal year. While such

a device could eliminate or reduce employee furloughs and service disruptions, some view an automatic continuing resolution as substituting a formulaic response for deliberate and informed decision-making.

Biennial Budgeting. While most authorizations are enacted on a multiyear cycle, Congress acts on budget resolutions and appropriations acts annually. Biennial budgeting proposals would change the cycle under which Congress acts on budget resolutions and appropriations acts (and annual authorization acts) to two years. Biennial budgeting proposals are intended to reduce the amount of time Congress spends on budgetary legislation, to allow more time for congressional oversight of federal agencies and programs, and generally to provide for more efficient budget decision-making. In the view of some, a biennial approach could impair Congress's ability to respond to changing economic and budgetary circumstances.

Constitutional Amendments. Over the years, constitutional amendments have been proposed to change the budget process in various ways, including requiring a balanced budget, providing for a line-item veto, and limiting tax increases. First, balanced budget amendment proposals generally would require that total federal spending not exceed total federal revenues.⁸ Second, line-item veto amendment proposals would provide the President the constitutional authority to disapprove items contained in budgetary legislation signed into law. In 1996, Congress and the President enacted the Line Item Veto Act, which provided the President statutory authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, or any limited tax benefit. In 1998, however, the U.S. Supreme Court found that this statutory authority was unconstitutional. Third, tax limitation amendment proposals would require a supermajority vote in each chamber to pass legislation that would increase revenues.⁹ Advocates of these budget reforms argue that the changes must be incorporated into the Constitution in order to be enforced effectively, while critics maintain that they would impede the ability to respond to compelling budget circumstances and would diminish Congress's "power of the purse" by delegating too much power to the President.

VOTE-A-RAMA Under 1974 Budget Act provisions for considering the annual budget resolution, once all 50 hours of floor debate on the measure have expired, senators can continue to offer an unlimited number of amendments without debate. That means continuous back-to-back voting on amendments until senators choose to stop offering them.

Limits on debate time sometimes lead to a situation referred to as "vote-arama," where the Senate considers and disposes of many amendments after official debate time has expired. Some Senators have proposed various solutions to the "vote-arama" problem so that they have better opportunities to understand the content of amendments and to debate them adequately.

One of the simplest way to avoid a "vote-a-rama" is to guarantee a minimum of 30 minutes for the debate of any amendment, which would force Senators to explain and debate any particular amendment. If the debate time ran during the normal "vote-a-rama" period (after the expiration of time on the resolution) this would indefinitely extend the time for debate, however.

In recent years, the Chair and Ranking Member of the Budget Committee have worked together to minimize the duration of the stacked votes at the end of the consideration of the budget resolution. As with the vast majority of activity on the Senate floor, managing the duration and organization of the vote-a-rama requires the cooperation and strategic direction of the floor managers and leadership. The floor managers have successfully balanced the right of the Minority to offer unlimited amendments with the need for a finite end to the amendment process for most of the budget resolutions.

If the Senate dispenses with the right of the Minority to offer and vote on amendments to the budget, the procedures governing the floor consideration of a budget resolution will more closely resemble the rules associated with cloture. The Minority's ability to offer and vote on amendments to a bill which has attracted 60 votes in favor of a cloture petition is extremely limited, as the Majority can use its prerogatives for priority recognition to "fill the tree" and effectively limit amendments. The budget resolution (and associated reconciliation measures) are the only Senate vehicles with a guaranteed right for any Senator to offer an amendment and receive a recorded vote.

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