Center for American Progress

Reflections on the Congressional Budget Act

Learning from Previous Budget Reform Efforts

By Sam Berger, Seth Hanlon, and Galen Hendricks October 2018

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Introduction and summary

Tax legislation enacted by the 115th Congress, commonly referred to as the Tax Cuts and Jobs Act (TCJA) of 2017, exposed significant problems in Congress' deliberative mechanisms. The far-reaching tax changes were rushed through Congress in a matter of weeks under the special fast-track budget reconciliation process, straining procedures that had been designed to ensure deliberative and inclusive consideration of fiscal policy.

The legislation's proponents relied on budgetary gimmicks and deceptive economic arguments that were unsupported by any serious analysis. The majority in Congress chose to disregard the budget impact estimates of the Joint Committee on Taxation (JCT) and the Congressional Budget Office (CBO), while the Treasury Department produced no public revenue or distributional analysis of the bill.[1]

The process itself was also rushed and closed: Congress held no hearings on the legislation where it could have heard from tax experts, affected communities, or the general public; it conducted key negotiations behind closed doors; and it made numerous, consequential changes at the last minute before critical votes, without providing sufficient time for the public or even most members to understand the effects of those changes.[2] It is essential to restore rationality and basic norms to the budget process in order to ensure that this approach does not set a new and dangerous precedent for the nation.

The current budget process was established by the landmark Congressional Budget and Impoundment Control Act of 1974, also called the Congressional Budget Act (CBA). Understanding the successes and failures of the CBA can inform a way forward toward achieving a more effective budget process. The CBA established new institutions in Congress, including the CBO and the Budget Committees in the House and Senate. It dramatically curtailed the power of the president to withhold federal funds once Congress has appropriated them. It improved the availability of information to inform decision-making and established an annual process for developing and approving the federal budget.

The results of the 1974 CBA have been mixed, however, in terms of both its stated goals and the budget process that evolved. In hindsight, it succeeded most where it improved the information and analytical capacity available to Congress and enhanced congressional authority over the budget. It has been less successful in ensuring that Congress enacts timely budgets. While the budget process at first worked largely as intended, adherence in Congress to the CBA's processes and deadlines has eroded, and today, the budget process has been warped by brinkmanship and partisan posturing, as members of Congress increasingly use budget chokepoints to try to extract policy concessions from the other side.

This report examines the major reforms enacted as part of the CBA and assesses what is working and where the current budget process has gone astray.[3] The report recommends several reforms, including that Congress should increase transparency and access to information by strengthening nonpartisan institutions such as the CBO and creating neutrality between tax and budget processes. It also recommends that Congress take steps to address the brinkmanship and partisan posturing in the current budget process by eliminating the debt ceiling and streamlining the budget resolution process.

These concrete measures will not solve all the woes of the current budget process, but they will help halt the erosion of the norms and processes that support an informed and coherent fiscal policy, as well as help put in place an improved framework for policymaking that allows for more effective management of the federal budget.

Mandatory spending

Mandatory spending, also known as direct spending, refers to spending that Congress has authorized outside of annual appropriations bills. Most mandatory spending is through benefit programs such as Social Security and Medicare. In contrast to discretionary spending, the overall amount of spending through mandatory programs is determined indirectly by rules that Congress sets for eligibility, benefits, and other payments—not by fixing an annual amount to be spent on each program.

The 1974 Congressional Budget Act

Congress enacted the 1974 Budget Act to establish an orderly process for annual budgeting and re-establish congressional power over fiscal policy.[4] Prior to the CBA, the process of enacting spending and revenue legislation was disorganized, with no mechanism to coordinate spending and revenue levels. Numerous congressional committees had authority over various spending programs, in addition to the two committees overseeing taxes. Furthermore, legislation enacted in the 1960s significantly expanded mandatory spending—or programs that are not subject to annual appropriations. As a result, Congress lacked a formal process to reconcile spending and revenue legislation with overall budgetary goals.[5]

At the same time, many in Congress accused President Richard Nixon of executive overreach in shaping annual budgets.[6] This concern was exacerbated by the president's use of the executive power of impoundment to refuse to spend nearly $12 billion in congressionally appropriated funds.[7] Further, legislators worried that in passing federal budgets they depended too greatly on information only available to the president through the Office of

Management and Budget (OMB). In response, they sought to rein in the president's power over the budget process and assume more power for themselves.[8]

In 1974, the efforts of members of Congress to assert their own prerogatives, improve timeliness of budgets, and more effectively set national priorities finally culminated in the CBA. This new law achieved the following major structural changes in federal budget policy:

- Established the House and Senate Budget Committees
- Established the Congressional Budget Office
- Effectively eliminated executive impoundments
- Established the budget process and timeline

Discretionary spending

Discretionary spending is spending that Congress determines each year to fund federal agencies and programs. Congress enacts 12 appropriations bills each year to fund federal agencies—though it frequently combines all or some of the 12 appropriations bills in an "omnibus" or a "minibus" bill. Appropriations bills fund national defense; law enforcement; science; transportation; and many health, education, and veterans' programs, among many other government functions.

Impoundment

Impoundment is the refusal by the president to spend funds that have been appropriated by Congress.

The primary components of the Congressional Budget Act

The Congressional Budget Act achieved four main reforms to the federal budget process. It established the Congressional Budget Office and the House and Senate Budget Committees, it ended the practice of impoundments, and it established an annual process for developing and approving the federal budget. Each is detailed in the following sections.

Establishing the congressional Budget Committees and the CBO

In order to create a more efficient process for drafting a yearly budget, the CBA established Budget Committees in the Senate and the House. The primary responsibilities of these committees include monitoring and enforcing rules relating to government spending and revenue, as well as drafting the annual budget resolution.[9]

The CBA also created the CBO to produce independent analyses of budgetary and economic issues to better inform Congress' deliberations.[10] To ensure impartiality, the CBO is required to be both objective and nonpartisan. While the CBO provides assessment of fiscal and economic impacts of budgetary decisions for Congress and the public, it does not give policy recommendations.[11] Creating the CBO addressed a critical congressional information deficit by breaking the administration's monopoly over budget and economic information. It is widely regarded as a success: The CBO's reputation for providing nonpartisan research and technical assistance to legislators is unparalleled, and many experts credit the CBO with helping protect checks and balances and legislative independence.[12]

Under the CBA, the CBO is required to produce annual economic and budgetary projections that cover a minimum of five fiscal years. The CBO typically provides a 10-year budget and economic outlook, as well as a long-term budget outlook covering at least 25 years. The CBO also provides cost estimates—or budget scores—for proposed legislation. Each year, CBO staff undertake between 500 and 700 cost estimates, providing a nonpartisan view for Congress and the public of the budgetary impact of proposed legislation. In addition, the CBO analyzes the economic impact of broader policy issues; recent examples include reforms to immigration and incarceration policies.[13]

Budget score

A budget score is an estimate of how particular legislation proposed in Congress will affect government spending and/or revenue. In general, the Joint Committee on Taxation scores revenue bills, while the Congressional Budget Office scores all other bills.

While policymakers and outside critics have challenged the CBO's assumptions and methods, as well as the accuracy of its projections, in specific instances,[14] the CBO has maintained strong bipartisan support and a reputation for integrity, even-handedness, professionalism, and commitment to empiricism. The nonpartisan staff members of the Joint Committee on Taxation, which dates back to 1926, play a similar role for revenue legislation and are similarly highly regarded.

Eliminating the executive power of impoundment

The third major accomplishment of the CBA was the elimination of impoundments. As early as Thomas Jefferson,[15] presidents had asserted this privilege of withholding funds from congressionally appropriated programs. This power was rolled back by the CBA in an effort to re-establish the congressional power of the purse and return budget authority to Congress.[16] The CBA required the president to seek congressional approval in canceling appropriated funds, through a process known as rescission.

Under the act, if the president wishes to deny funds for congressionally approved activities, he may request that Congress rescind the funds. However, if Congress does not approve this request or fails to take any action within 45 days, these funds are required to be released.[17] The elimination of impoundments successfully shifted an important budget authority from the executive branch to the legislative branch.

Establishing the budget process and timeline

In addition to establishing new institutions and authorities within Congress, the CBA also put in place major reforms to the process and timeline for establishing the federal budget.[18] These included setting up processes for budget resolutions, budget reconciliation, and establishing new timetables for Congress to conduct its work.

Budget resolutions

The act created a new congressional budget process, beginning with submission by the executive branch of the president's proposed budget to Congress in February.[19] By April 15, both houses of Congress must agree on a concurrent budget resolution that sets spending and revenue levels,[20] covering 21 broadly defined functions of government, for the coming fiscal year.[21] Budget resolutions are internal congressional mechanisms: They do not require signature by the president and are not laws, but they set certain parameters for legislation that Congress subsequently considers. The annual timeline that the CBA set for the budget resolution has largely broken down.[22]

Since its enactment, there have been only six occurrences where Congress adopted a budget resolution on time.[23] On average, Congress misses the deadline by 36 days, and since 1999, there were nine years in which no budget resolution was adopted at all.[24] Yet during those nine years, the government was still funded even without a budget resolution, and more recently, bipartisan budget deals struck well after the formal budget resolution was due have served the functions of the budget resolution.[25] This has prompted some analysts to question whether the budget resolution process can be reformed or whether it should be done away with altogether.[26]

Budget reconciliation

Under the CBA, the budget resolution may contain reconciliation directives for certain committees, providing numerical targets on increasing or decreasing outlays, revenues, or public debt. The reconciliation process was originally designed to ease the politically difficult process of deficit reduction; bills considered under the reconciliation process enjoy fast-track procedures—including, most importantly, that they cannot be filibustered in the Senate, and can therefore be passed with a simple majority.

As a result, in the context of today's divided government, where the filibuster has been used routinely, the fast-track process of reconciliation is increasingly used to make major policy changes.[27] In order to prevent members of Congress from fast-tracking provisions that are unrelated to the reconciliation goals, the Senate adopted the Byrd Rule in 1985, and in 1990 incorporated it into the CBA, thus making it permanent.[28] The Byrd Rule allows any senator to raise a point of order to strike provisions that add to the deficit after the budget window—unless those budget effects are offset by other provisions within the same title of the legislation or are otherwise extraneous. Waiving such a point of order requires the vote of three-fifths of the Senate; otherwise, the provision is struck from the underlying legislation.

In explaining the purpose of this amendment, Sen. Robert Byrd (D-WV) cited the abuse of reconciliation's fast-track process, stating:

> *[W]e are in the process now of seeing ... the Pandora's box which has been opened to the abuse of the reconciliation process. That process was never meant to be used as it is being used. There are 122 items in the reconciliation bill that are extraneous. Henceforth, if the majority on a committee should wish to include in reconciliation recommendations to the Budget Committee any measure, no matter how controversial, it can be brought to the Senate under an ironclad built-in time agreement that limits debate, plus time on amendments and motions, to no more than 20 hours.*

Budget reconciliation and the 'Byrd Rule'

Budget reconciliation refers to the special procedures that the Congressional Budget Act created for certain budget-related bills. When congressional leaders want to use reconciliation to facilitate the passage of a bill, they must include reconciliation directives, also known as instructions, in the budget resolution. The directives charge committees with drafting legislation meeting certain budgetary targets. Crucially, reconciliation bills cannot be filibustered in the Senate, so they can pass with a majority of votes rather than three-fifths.

However, the Senate's Byrd Rule constrains the content of reconciliation bills. For example, provisions that are not sufficiently budget-related, provisions that amend Social Security, and provisions of bills that increase deficits outside of the budget window—unless part of a budget-neutral title of the bill—can be struck out of a reconciliation bill unless there is a three-fifths majority to retain them.

It was never foreseen that the Budget Reform Act would be used in that way. So if the budget reform process is going to be preserved, and more importantly if we are going to preserve the deliberative process in this U.S. Senate—which is the outstanding, unique element with respect to the U.S. Senate, action must be taken now to stop this abuse of the budget process.[29]

When the CBA was drafted, the expectation was that reconciliation would only be used for deficit reduction. However, the CBA's text is silent on the matter, and the Byrd Rule's terms only address reconciliation bills that increase deficits beyond the budget window. In 2001, with President George W. Bush and a Republican-controlled Senate seeking to enact deficit-increasing tax cuts, the Senate parliamentarian—the official appointed by the Senate to serve as its expert on rules and procedures, whose rulings are followed except in rare instances—informally ruled to allow reconciliation bills that increase deficits within the budget window.[30] This move by the parliamentarian opened the door for Congress to pass the regressive, deficit-increasing Bush tax cuts through the reconciliation process.[31]

In 2007, to prevent the use of reconciliation to increase deficits, the new Democratic majority in Congress adopted the "Conrad Rule," requiring 60 votes to overcome a point of order for reconciliation bills that increased the deficit within the budget window. However, Senate Republicans repealed the rule upon reclaiming the majority in 2015, allowing for the deficit-increasing Tax Cuts and Jobs Act to pass two years later with only 51 votes.[32]

Changes to budget timetables

The CBA sought to establish a proscriptive budget process in order to force Congress to reach agreement on budget priorities. Budget resolutions and reconciliation were expected to guide committee spending and revenue targets.[33] Once approved by a floor vote, these priorities are sent as concurrent resolutions to the Appropriations Committees, along with a 302(a) allocation table, which distributes among the congressional committees spending totals laid out in the budget resolution. Only then are the Appropriations Committees able to allocate this funding among their 12 respective subcommittees through 302(b) suballocations and to draft the actual spending bills, which must adhere to both of these allocations.[34] The complexity of this process required allowing additional time for Congress to develop the nation's budget. As a result, the CBA also expanded the window for the budget process, shifting the start of the fiscal year from July 1 to October 1,[35]

302(a) allocations

The budget resolution includes 302(a) allocations—named for the section of the Congressional Budget Act that created them—which apportion the topline level of spending in the budget resolution among the congressional committees.

The appropriations committees then divide their allocations into 302(b) suballocations among the 12 subcommittees that draft the 12 appropriations bills.

allowing Congress more time to respond to the president's budget request. At the time, Congress believed these formal process improvements would force legislators to agree upon priorities and place more attention on the details of legislation.[36] In practice, this timetable change did not streamline decision-making as significantly as originally hoped, and stand-alone appropriations bills are rarely enacted by the start of the fiscal year.[37]

Learning the lessons of the CBA

The legislative history of the Congressional Budget Act demonstrates congressional concern over impasses and a failure to reach consensus.[38] While many of the process improvements established by the CBA have not resolved these issues, several clear lessons can be distilled from the CBA.

Better information leads to a better budget process

New institutions, such as the Congressional Budget Office and the Budget Committees, established by the CBA have given Congress greater insight into the consequences of its policies. In the 1970s, congressional committees frequently reported out seemingly technical changes to benefits formulas or other economic drivers of legislation. However, as these policies were implemented, these modified formulas could result in hundreds of millions of dollars in increased cuts or spending that were outside the visibility or control of the president, key committees, or other policymakers.[39] Without the necessary information or feedback loops required to make responsible choices, Congress inadvertently locked in spending changes without making a specific policy choice to do so. By establishing the CBO, Congress is now more able to adequately assess the impacts of its decisions. The public too is now supplied information on the economic impacts of proposed legislation, better allowing congressional representatives to be held accountable for their votes. The CBA has provided necessary elements of more thoughtful, informed, and transparent debates across the federal government. To the extent that the nation's current discourse and debates in Congress fail these standards, that is in spite of and not because of the CBA's reforms.

The current budget process is broken

The CBA's budget process, however, has yielded mixed results. The orderly process for annual appropriations envisioned in the CBA has clearly broken down. The expectation of an annual congressional budget puts some pressure on party caucuses to produce one—but congressional budgets increasingly fail to provide an honest accounting of their authors' priorities. For example, recent House majority budget resolutions have used various gimmicks—including enormous but wholly unspecified spending reductions, reliance on unrealistic economic assumptions, and simply ignoring the cost of tax cuts. In a recent congressional hearing, Richard May, the former staff director for the House Budget Committee, gave away the game, noting that:

> *The budget resolution is based on a series of policy assumptions that we make to meet our number. But, again, those are not binding on the committees. We only provide illustrative examples. ... So it's not so much the fact that we're driving a particular policy or policies, it's simply an outline or a blueprint, as to, if we get to balance, these are the approximate savings that we believe is (sic) a fair and reasonable way of getting to balance within the 10-year period. So I mean, we're not trying to—we're not trying to hide anything. It's just that some of the details really are—I don't want to say irrelevant, but it's not really a policy-driven process, it's a numerical effort to show how we can get to balance.*[40]

The fiscal year 2018 budget resolution passed by the House of Representatives provides a vivid example of these budget gimmicks. This bill relies on several unrealistic assumptions, including rosy growth estimates, vague and unrealistic cuts to discretionary spending, and unrealistic policy assumptions. The bill assumes an average real gross domestic product growth rate of 2.6 percent for the decade, well out of the range of mainstream estimates, including that of the CBO. It contained savings of $620 billion in unspecified cuts to spending, and $700 billion on top of that through cutting improper payments without providing policy guidance on how it would do so.[41] The House budget also did not account for the cost of the major deficit-increasing tax overhaul that congressional leaders were crafting at the time, and which they ultimately enacted in December 2017.[42] While process changes cannot force leadership decisions, it is important to generate a process that establishes strong norms and increases transparency.

The rise of fiscal brinkmanship

Congress sought to impose a measure of order on itself by establishing a budget process in the CBA. But in recent years, factions within Congress have increasingly sought to use budget-related chokepoints to demand their desired policy outcomes. Since 1977, Congress has shut down the government or allowed funding to lapse 19 times by failing to enact timely appropriations bills or by using continuing resolutions (CRs), and it now brings the government to the brink of shutdown on a regular basis.[43] Worse, in 2011, House conservatives used the approaching need to raise the debt ceiling as a weapon in their budget fights with President Barack Obama—and the United States came dangerously close to defaulting on its obligations for the first time in its history.[44]

Continuing resolutions

Continuing resolutions are temporary measures to keep the government funded. They are required when Congress and the president have failed to enact regular appropriations bills before the beginning of the fiscal year on October 1. They generally continue funding for agencies at roughly the previous year's levels.

The debt ceiling's original purpose was to facilitate the approval of debt issuances by the Treasury Department; prior to its enactment, Congress needed to authorize each individual debt issuance. Raising the debt limit only serves as a vote for Congress to make good on the spending it has already agreed to pay.[45] Historically, this was a routine vote to simply allow the Treasury to finance the nation's obligations. But in recent years, it has become a cudgel for conservative members of Congress who threaten U.S. default to extract policy concessions.[46] In recent years, the debt limit has caused unnecessary self-inflicted crises that brought the United States to the brink of disaster—though Congress has not yet allowed the country to default. But it keeps coming close, and with just one misstep caused by partisan brinkmanship, the economic consequences would be dire, leading to the disruption of financial markets, a downgrading of the nation's credit score, and increased costs to taxpayers.[47]

Debt ceiling

The debt ceiling is an overall limit on the amount of money that the U.S. government can borrow to meet its ongoing obligations. These obligations include paying Social Security and other benefits, salaries for civilian government workers and the military, and interest on outstanding debt. When the government reaches the debt ceiling, the Treasury Department can no longer sell bonds to raise cash. And if the cash runs out, the government would default on its obligations.

A key point about the debt ceiling is that raising the debt ceiling only enables the Treasury to issue debt instruments to meet existing obligations. In other words, raising the debt ceiling does not affect Congress' power to enact spending increases or tax cuts that increase the debt; it merely allows the Treasury to make good on the obligations the government already has—for example, to pay Social Security benefits.

Policy recommendations

Moving forward, there are a number of issues that Congress should focus on in order to craft a more efficient, accountable, and transparent budget process.

Strengthening nonpartisan scorekeepers

Over decades, Congress' nonpartisan professional offices have served as critical bulwarks supporting evidence-based policymaking. Scorekeepers such as the Congressional Budget Office and the Joint Committee on Taxation, along with Congress' audit arm (the Government Accountability Office) and research department (the Congressional Research Service), are an indispensable source of information for all members of Congress. Without their nonpartisan estimates, lawmakers would be forced to rely solely on the Office of Management and Budget, creating an imbalance of power and information and leading to more politicized information. This influence is clear when examining the FY 2018 budget plan released by Director Mick Mulvaney's OMB. It contains serious errors, including double-counting revenues from feedback of the tax cuts and politically determined and unsupported gross domestic product growth estimates, in an attempt to back up the administration's poor policy choices.[48]

Recently, nonpartisan analysts have been increasingly under fire from members of Congress and outside partisans who disagree with analyses that do not bear out their claims. Now more than ever, these nonpartisan institutions are critically important both to ensuring that the legislative and executive branches are operating on equal footing and to creating a transparent budget process in which Congress and the public have access to vital information in a timely manner.

To allow for the CBO and the JCT to continue filling this key role, Congress should make sure that these institutions—in addition to Congress' other nonpartisan institutions—are adequately funded and have sufficient time to fully examine the impacts of a bill before it is signed into law, including, where appropriate, the policy impacts of the proposal. Moreover, Congress should work to provide at least a 72-hour window—

with exceptions only for emergency legislation—between the presentation of a score and voting on legislation, allowing Congress and interested parties time to analyze and comment on its effects.

This past year, the CBO's staff provided analysis on a sweeping range of topics including immigration, water rights, health care, and taxes. They produced 740 formal cost estimates, the highest number in a decade, yet still fell short of completing all requests. To accommodate its increasingly important role, the CBO has requested additional funding to hire an 20 additional staff members by 2021.[49] Expanding the institution will be critical to meeting the ever-growing needs of congressional appropriators. Thorough nonpartisan analysis is invaluable and essential to the budget crafting process, so Congress must ensure that these agencies have the support they need to achieve their mission.

Creating neutrality between the tax and budget processes

Taxation and direct spending do not stand on equal footing under the current budget process. This has critical implications for whether legislators choose to pursue policy goals through direct spending or tax expenditures. Tax expenditures are special tax provisions such as exclusions, deductions, deferrals, or credits that benefit certain activities or taxpayers. Since tax expenditures can be economically equivalent to direct government spending, scholars have referred to them as "spending through the tax code," or, as a 2010 Center for American Progress report called them, "IRS-administered spending programs."[50]

The process scales are currently weighted heavily toward government spending through the tax code as opposed to traditional discretionary and mandatory spending programs. Tax expenditures receive far less scrutiny both during initial consideration and after becoming law, while direct spending measures face substantial scrutiny both during the legislative process and in subsequent legislative sessions when new authorizations or appropriations are necessary to maintain funding for the measure. Tax expenditure items flow through the tax-writing committees, not the committees with expertise in the relevant substantive program areas, such as education or housing. For example, Congress has created a confusing multiplicity of tax breaks for higher education, some of which are poorly targeted toward families who need help paying for college, in addition to direct subsidies such as Pell Grants. Tax expenditures are often included in a much larger tax bill, often as a means to gain member support for the larger measure. Once enacted, there is no process that requires review of a tax expenditure to determine whether it is in fact achieving the intended goal.

Tax expenditure

A tax expenditure is the revenue that the government loses due to special provisions of the tax code such as exclusions, exemptions, deductions, deferrals of tax liability, or tax credits.

The Joint Committee on Taxation and the Treasury Department publish lists of tax expenditures each year, along with their estimated budget cost.

Tax expenditures are economically equivalent to spending. For example, if a company meets certain criteria to qualify for a $1,000 tax break, it is $1,000 better off and the U.S. Treasury is $1,000 worse off; the result is the same as if the government directly provides a $1,000 subsidy to companies meeting the same criteria.

Examples of major tax expenditures include the research (R&D) tax credit, the mortgage interest deduction, the special lower rate on capital gains and dividends, and the Earned Income Tax Credit.

According to a recent report by researchers Benjamin H. Harris, Eugene Steuerle, and Caleb Quakenbush, "There is no annual review of how Congress spends through the tax code, no program staff dedicated to tax expenditures' administration, no inspector general (IG) for tax expenditures, and no rigorous government evaluation of the effectiveness of most tax breaks."[51]

A striking example is the tax subsidies for fossil fuels, many of which were enacted decades ago. Now costing the U.S. Treasury Department billions of dollars each year, these tax breaks are completely unnecessary and counterproductive to U.S. climate goals. The weaknesses of the tax legislative process ensure that once put in place, a tax expenditure is extraordinarily difficult to eliminate, especially as powerful lobbies build up to fight back any efforts to do so. The 2017 tax law is a perfect example of this fact. While it was billed as "tax reform," the legislation failed to eliminate many of the fossil fuel tax breaks and dozens of other special-interest tax expenditures.[52]

The weaknesses of the process result in poor legislative outcomes in other ways too. Members of Congress may develop tortured tax proposals to take advantage of this easier route through the budget process. And due to the structure of tax rates, which increase as income increases, tax expenditures that are structured as exclusions or deductions typically have regressive impacts, providing larger benefits to higher-income taxpayers than to those with lower incomes. In fact, in 2013, the CBO estimated that the wealthiest one-fifth of households would receive more than half the benefit of 10 major tax expenditures, while only 8 percent would go to the lowest quintile.[53]

Finally, while tax expenditures span almost every function of the budget, there is no process through which the committees responsible for overseeing legislation in those functional areas are required to review tax proposals in their area of oversight. Nor is there a regular process for reviewing the tax and spending sides of the ledger together—for example, to determine whether the array of education spending programs and education tax expenditures are successfully addressing the highest-priority needs in education funding.[54]

Harris and co-authors identify several promising avenues for systematic oversight and evaluation of tax expenditures. These include regular evaluation within the executive branch, where the Treasury's Office of Tax Policy—if given additional resources—would be best situated to study the effectiveness of tax expenditures, in coordination with the OMB and the relevant agencies. Congress' Government Accountability Office evaluates government programs, sometimes including tax expenditures; with additional resources, it can be tasked with more systematic review of tax expenditures.

In addition to implementing stronger, more frequent oversight and evaluation of tax expenditures, policymakers should ensure that revenue and spending are put on a level plane in the budget process—including when it comes to any budget enforcement mechanisms such as triggers or sequesters that go into effect automatically when certain fiscal targets are missed. The budget process should be neutral with regard to spending and revenue, and policymakers should be wary of proposals that are slanted in one direction. Sen. Rob Portman (R-OH) introduced one such piece of slanted legislation in 2013, the End Government Shutdowns Act,[55] which would have created a process for an automatic CR if the government failed to pass any appropriations or temporary CR bills before the start of the fiscal year. If enacted, the automatic CR would have caused increasingly large cuts to government programs and enactment of fewer appropriations bills. After the fourth year of failed appropriations, overall funding would be 10 percent lower than at the start of the first year, eventually increasing to 26 percent after 10 years.[56] Even if an automatic CR held appropriations levels constant in nominal terms from one year to the next, it would amount to an effective cut in the real value of government services. An automatic CR would be a one-sided cudgel, since tax expenditures and taxes in general would be unaffected. That imbalance would make it more likely that conservatives who want to slash government services would accept the automatic CR or even embrace it. In so doing, the proposal could make it even more difficult for Congress to reach agreement on annual appropriations bills that sensibly address national needs and priorities.

The Balanced Budget Amendment[57] that the House recently considered but rejected would have a similar effect. The amendment would require an across-the-board cut to spending programs should expenditures exceed revenues. This not only would cause deep cuts to essential government programs such as Social Security, Medicare, and Medicaid, but it also would eliminate the possibility of providing needed fiscal stimulus during a recession and in fact would worsen recessions.[58]

To the extent that Congress imposes discipline on itself by implementing policies that are triggered if certain budget goals are not met, those policies should be neutral between tax and spending. Recent sequester mechanisms, including those in the Statutory Pay-As-You-Go Act of 2010 and the Budget Control Act of 2011, only ratchet down spending programs. If Congress designs mechanisms that are designed to force itself to meet certain budget goals, such mechanisms should cut spending and raise revenues alike.[59]

Eliminating the debt ceiling

The debt ceiling is an antiquated law that could one day trigger a U.S. government default if it continues to be abused, with large, negative repercussions for global financial markets and the U.S. economy. Congress should put an end to the unnecessary uncertainty that comes with raising the debt limit, and instead eliminate the measure altogether. The moment for Congress to make decisions about spending and revenue is when it makes decisions about spending and revenue, not when the bill comes due.

Streamlining the budget process

The timeline for congressional budgeting has almost entirely broken down in recent years. Congress routinely misses appropriations deadlines, setting back agencies in determining their own budgets. It is time to hit reset and establish a more streamlined, front-loaded process. In February, the Convergence Building a Better Budget Process Project—a collaboration of budget experts, advocates, and executives from across the political spectrum—developed a practical proposal for a two-year "Budget Action Plan" that would be negotiated between Congress and the president at the beginning of each Congress. The Budget Action Plan would be considered under rules similar to those that now govern the budget resolutions and reconciliation—that is, debate would be limited, and it would not be subject to Senate filibuster.[60] The plan would serve the basic function of setting topline budget authority levels for each of the two fiscal years of the congressional term. (The Convergence Project also recommends that the Budget Action Plan include increases in the debt limit. As discussed above, CAP believes the debt limit should be eliminated outright.) Appropriations bills would still be developed on an annual basis under current congressional procedures. Two-year budgeting would essentially formalize the habit that Congress has already fallen into in recent years of striking two-year deals on topline budget levels. But formalizing the process and moving it up to the beginning of each Congress would force Congress to make decisions earlier, giving more time for the appropriations process. That, in turn, would make it more likely for Congress to pass appropriations bills on time, allowing agencies to plan appropriately.

Another step toward a more rational—and potentially less partisan—budget process is to eliminate the ritual that has become known as "vote-a-rama" in the Senate. While the CBA provides for certain accelerated processes for budget resolutions, there is no limit to the amount of amendments that can be offered on the Senate floor. As a result, before the Senate passes a budget resolution, it typically engages in a vote-a-rama in which senators offer many amendments. The amendments often lack any actual substance and are simply a vehicle to force the full Senate to cast show votes on certain issues—and often to force members of the other party to cast votes that are substantively meaningless but politically toxic when later misrepresented in campaign ads. The two parties in the Senate engage in a game of chicken, with one party threatening to offer unlimited amendments, the other counter-threatening with their own amendments, and the charade continuing into the wee hours of the night, until senators are finally too tired physically to keep going. Congress should reform the budget process to end the toxic partisan charade of vote-a-rama by limiting the number of amendments that can be offered to the budget resolution, especially on substantively meaningless amendments to create "reserve funds" that have no actual effect.[61]

Together, these changes will not guarantee that Congress makes better budget choices—but they would make the budget process more rational, less cumbersome, and potentially less partisan.

Conclusion

The Congressional Budget Act grew out of frustration with a broken budget process. It succeeded in reasserting Congress' prerogative over the federal budget, and it created vitally important institutions for improving the information used in budget decisions. However, while some of the reforms to the budget process looked good on paper, in practice they have been less successful in creating a more transparent, effective, and accountable process for guiding the nation's budget priorities. The failure of these process improvements indicates that process alone cannot address all of the problems plaguing congressional budgeting—some of the issues stem from the erosion of shared norms, resulting in less respect for disinterested expertise, an increase in partisan brinkmanship, and the breakdown of what used to be a shared commitment to improving how government functions.

Still, concrete reforms can make a real difference in the budgeting process. Increasing access to nonpartisan information, eliminating opportunities for brinkmanship and partisan posturing, and increasing transparency and accountability can ensure a process that is more informed, coherent, and effective.

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Acknowledgments

The authors would like to thank Pablo Alvarez, a former intern with the Economic Policy team at the Center, for his research assistance.

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