BUDGET BULLETIN
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CHAIRMAN MIKE ENZI | @BUDGETBULLETIN

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Senate Considers Fixes to America's Broken Budget Process

<u>In This Issue</u>:

The Problem: Broken Budgets and Out-of-Control Spending
Senate Budget Committee Hearings – Options for Fixing the Process
BudgetSpeak – "311" Explained

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The Congressional Budget Act of 1974 established the modern budget process. But after 40 years without serious revision, there is a growing consensus that nearly every stage of the process governed by the Budget Act fails Congress and the American people. These systemic failures have been building for decades. Congress is now considering action to fix America's broken budget process.

Beginning in October 2015, Senate Budget Committee Chairman Mike Enzi (R-WY) and committee members held a series of six hearings examining America's broken budget process and options for repair. This *Bulletin* presents findings from those hearings, detailing proposed process reforms Congress should consider to provide predictability, efficiency, and transparency.

The Problem: Broken Budgets and Out-of-Control Spending

In theory, the annual budget process begins on the first Monday in February with submission of the president's budget. Congress must then adopt its own budget resolution and enact authorizing bills, reconciliation legislation, and annual appropriations legislation. The process should end with the enactment of 12 regular spending bills by October 1, the beginning of the new fiscal year. But every stage of this decades-old process is fraught with delays, crisis negotiation, and dysfunction, exacerbating the problem of out-of-control government spending and debt.

<u>The Irrelevance of the President's Budget</u>

The president's budget begins the annual budget process but inevitably lands with a thud – physically and metaphorically. The multi-volume opus typically runs over 2,600 pages in length, the majority of which are devoid of practical policy proposals. When put to a vote, on a bipartisan basis recent White House budgets have gained little or no congressional support – not one vote. So while the Office of Management and Budget and numerous federal agencies devote a significant amount of time and energy to producing the president's budget, the proposal bears little relation to ultimate fiscal decisions reached by the legislative and executive branches.

Wasted resources aside, this disconnect between the president's budget and congressional decision-making is counter-productive. The Constitution entrusts the legislative branch with the "power of the purse," but the executive branch also plays a constitutional role in fiscal decisions because the president must decide whether to sign tax and spending bills into law. When the president's only recourse is to veto this legislation, the result is budgeting by crisis, with its inevitable inefficiencies only exacerbated by stalemates and showdowns.

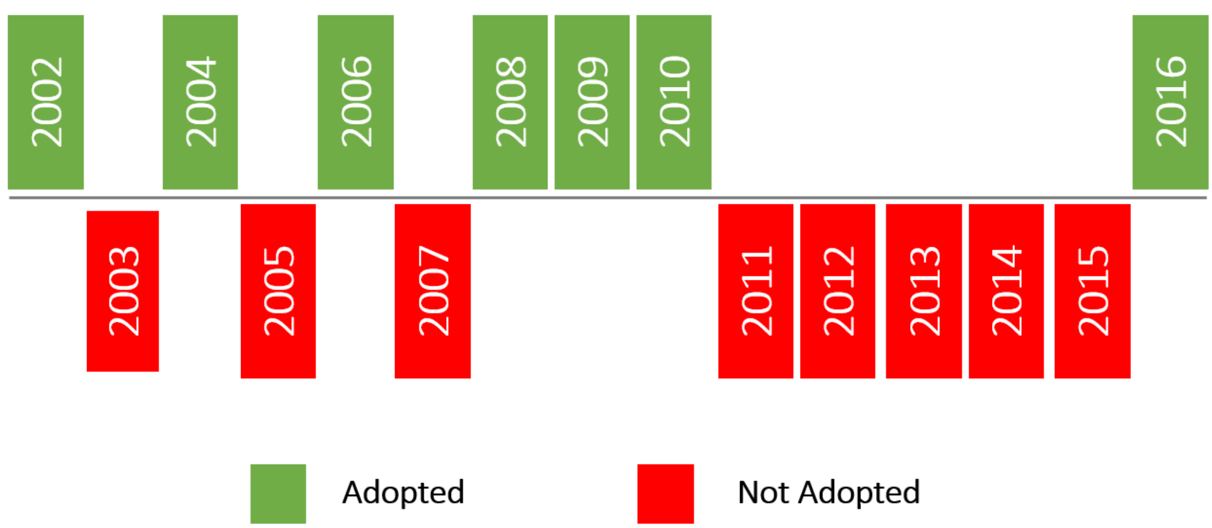
The Congressional Budget Resolution's Lack of Force

The congressional concurrent budget resolution lacks the force of law, so it plays next to no role in governing annual tax and spending decisions or more broadly in encouraging Congress to consider the country's long-term fiscal course. Congress can easily ignore the budget's limits on mandatory spending, which have no enforcement mechanism.

In previous years, the budget has set limits on discretionary spending in advance of the annual appropriations process. But the Budget Control Act of 2011 moved those limits into a bifurcated statutory process that has no formal relationship to the annual budget. Often these limits are renegotiated during the budget year after multiple continuing resolutions, rather than at the beginning of the planning process as envisioned in the Budget Act.

Consequently instead of acting as a governing document, the congressional budget resolution serves only to trigger an endless series of ambiguous political votes. And Congress is adopting fewer budget resolutions as a result: only 7 in the last 15 fiscal years.

Figure 1: Only 7 Successful Budgets in 15 Fiscal Years

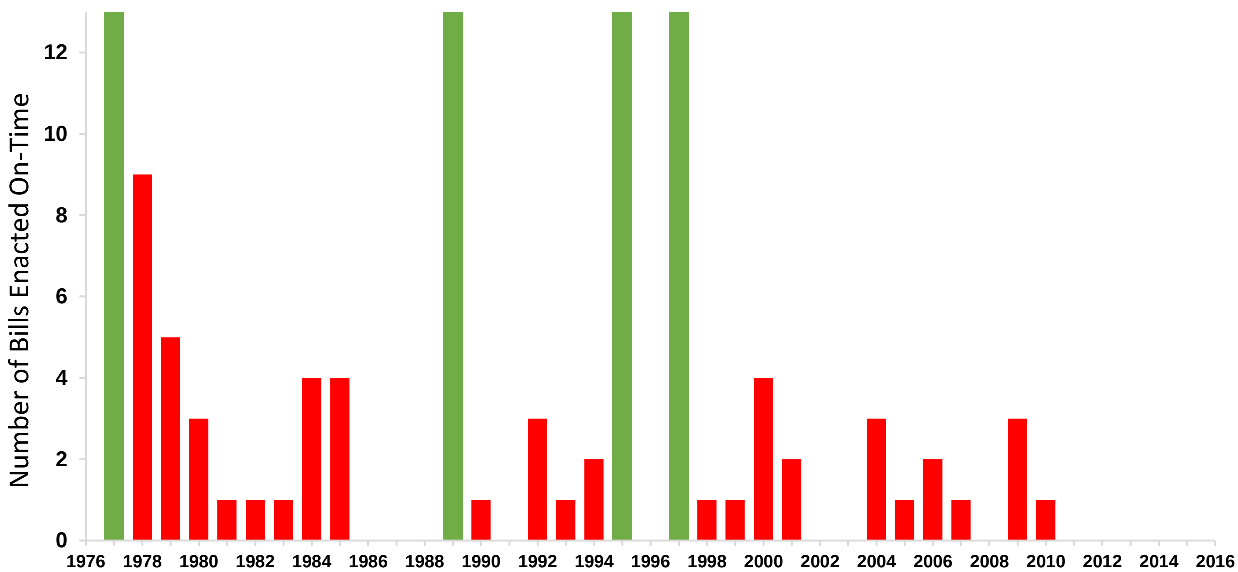


Annual Appropriations Delays

The annual appropriations process is usually completed months after the September 30 statutory deadline, forcing contentious showdowns. Congressional appropriators allocate one-third of the total federal budget across 12 appropriations bills. Their work frequently stalls once the bills leave committee. Contentious riders, disagreement over topline spending limits, and limited floor time prevent thorough consideration and timely completion of the process.

Late appropriations are nothing new – since creation of the modern budget process more than 40 years ago, Congress has completed its annual appropriations bills on time only four times – but the situation is worse today. The average delay associated with appropriations legislation has doubled to nearly three months on average. And over the last six fiscal years, not one appropriations bill has been completed on time.

Figure 2: Congress Completed Appropriations On-Time Only 4 Times in 40 Years



When Congress cannot pass spending bills on time, it resorts to temporary funding measures called continuing resolutions (CRs). These short-term measures simply carry on the previous year's funding at more or less the same levels and are no substitute for regular appropriations. The federal government has spent more than half of the last 40 years operating under 173 different CRs. Sometimes these short-term bills turn into long-term bills. Since 1974, Congress has resorted to full-year CRs to take the place of one-fifth of the annual appropriations bills.

When the 12 regular appropriations bills are completed, they are rarely enacted individually. Instead, Congress uses "minibus" or "omnibus" measures in which some or all of the individual appropriations bills are considered together in huge pieces of legislation. These massive bills make it difficult to review spending line by line and are often considered under tight timeframes, reducing the opportunity for amendment, deliberation, and transparency. For example, the omnibus appropriations bill for fiscal year 2016 – containing trillions of dollars of new spending and tax policies – received final votes in Congress just days after the legislation's unveiling.

There is currently a concerted effort in the Senate to consider the fiscal year 2017 appropriations bills individually and complete them on time. This important endeavor, however, is threatened by a broken budget process that incentivizes coalitions to slow appropriations and bring about crisis budgeting.

Spending on Autopilot: the Growing Mandatory-Discretionary Divide

Total federal government spending is divided between discretionary and mandatory spending. Each year, Congress provides discretionary spending – funding for what the public views as typical government activities, such as agency activities and federal grants – through the regular appropriations process.

By contrast, mandatory spending is enacted once and then automatically spent year after year, increasing based on uncontrollable factors like demographics. Over four-fifths of automatic spending is devoted to Social Security and health care spending.

Fifty years ago, 67 percent of federal spending was discretionary and provided annually by Congress, with only 33 percent spent automatically without congressional review or renewal. The current budget process makes more sense in a world in which annual appropriations constitute the majority of spending, focusing Congress's attention on the 12 bills that must be passed to fund the government each year.

But in the four intervening decades since the Budget Act took effect, the ratio of discretionary to mandatory spending has flipped. In fiscal year 2016, discretionary spending shrank to 30 percent of total government spending, and mandatory spending skyrocketed to **70 percent** of the budget. Looking ahead, in 15 years mandatory spending will make up 78 percent of total federal spending and consume all available government revenue.

Figure 3: Growth of Automatic Spending

The share of total federal spending consumed by entitlements and other automatic spending has doubled.

Mandatory spending has risen dramatically in part because the current budget process imposes little restraint on that side of the budget. Budget rules meant to limit government spending are routinely waived and only apply to new legislation; they ignore the 80 percent growth in mandatory spending projected under current law over the next 10 years.

All this budget dysfunction leads to uncertainty that imposes costs on federal agencies, state and local governments, and private sector businesses and non-profits. Organizations of all sizes are affected, but small businesses are disproportionately impacted. New research has demonstrated that this policy uncertainty has significant negative effects on economic activity, including private sector investment and hiring. A more predictable budget process therefore could lead to stronger economic growth and job creation.

Senate Budget Committee Hearings: Options for Fixing America's Broken Budget Process

In its series of process reform hearings, the Senate Budget Committee received testimony from a bipartisan group of government officials, budget experts, and economists. There was agreement on both sides of the aisle that the current process is broken and statutory change is necessary to fix it. Proposed solutions ranged from small, targeted fixes, to fundamental changes in the way Congress is organized and allocates resources. Following are reform proposals recommended during the Budget Committee hearings:

A Binding Budget

The congressional budget should be a binding plan that has buy-in from the necessary stakeholders. The president should have a more significant role in the planning process to prevent future showdowns months into the fiscal year. This could include streamlining and reforming the president's budget so that it is more useful for Congress's budget deliberations. In past Congresses, legislation has been introduced making the congressional budget a law. This reform proposal would ensure presidential agreement at the beginning on topline levels like the statutory limits on discretionary spending.

Mandatory spending and tax policy also must adhere to the budget levels agreed to at the beginning of the process. Reconciliation is not an adequate action-forcing mechanism to address growing automatic spending and deficits. The congressional budget should be a serious document that mandates compliance and provides mechanisms that align spending with revenues. This reform proposal could move fiscal negotiations away from crisis showdowns and toward a long-term planning process.

Predictable Appropriations

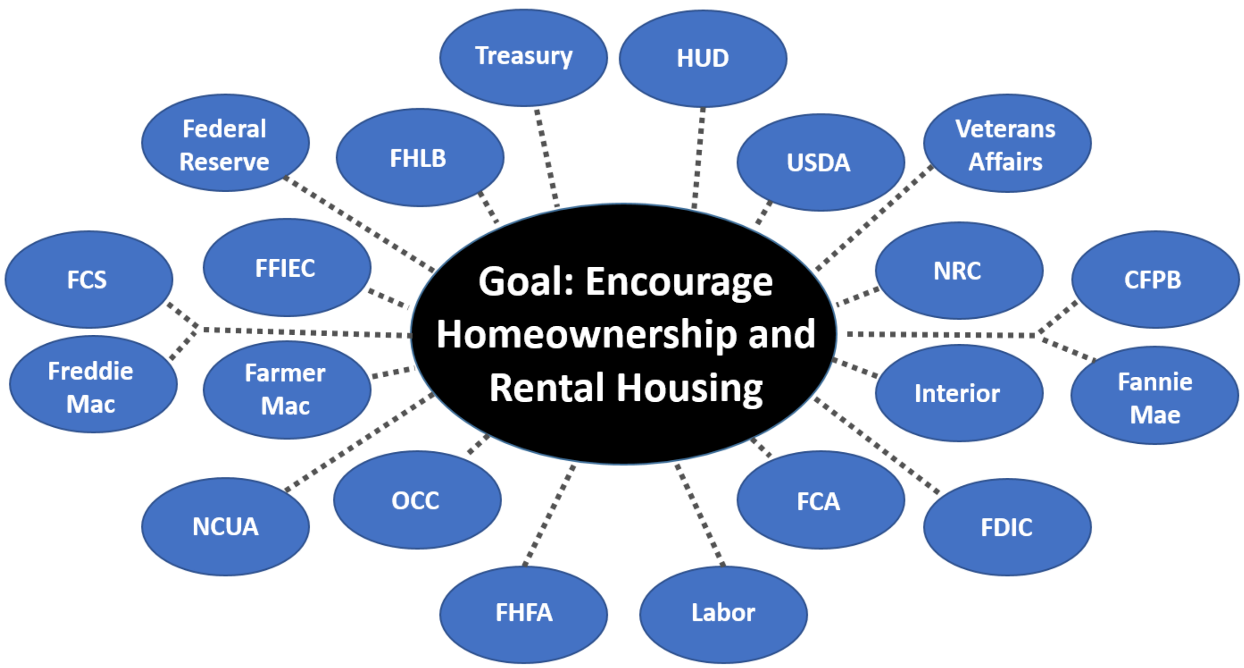
Even though they are a shrinking portion of the budget, annual appropriations should be completed on time after thorough consideration and amendment. Many members of Congress support biennial appropriations as a way to increase certainty and transparency in the appropriations process. This reform proposal would establish two years of funding instead of one year (or less) as provided under the current process. It could theoretically lead to more oversight as well, though a new, formal process to encourage program review is needed.

Legislation also has been introduced to create an automatic continuing resolution when appropriations are not enacted on time. This reform would prevent stalemates and showdowns. A variation introduced by Senator Rob Portman (R-OH) reduces spending automatically until full-year appropriations are enacted.

Spending Review

Congress also should establish a new process to review the effect of previous years' funding. Current oversight is performed in silos, fragmented across committee and agency jurisdiction. Authorizations are routinely ignored or allowed to lapse, while performance data produced by the executive branch showing program effectiveness is not formally considered during the resource allocation process. This has created a spiderweb of overlapping agencies and programs, many trying to accomplish the same goals.

Figure 4: Twenty Agencies Oversee 160 Housing Programs



When Congress spends money on a program, it should know how effective that program has been in the past and what other resources are meant to accomplish the same purpose. Portfolio review would force Congress to examine its resource-allocation decisions (both tax preferences and spending) by policy goal and decide whether the programs it is funding are effectively accomplishing that goal. This reform could be achieved by realigning committee jurisdiction or, less ambitiously, by reconstituting special subcommittees to review spending line-by-line and provide recommendations to relevant committees.

Importantly, witnesses appearing before the Budget Committee and offering the above reform proposals cautioned that process reform is not a cure-all for congressional dysfunction. A better budget process will not force agreement on polarizing issues, for example. But witnesses testified that process reform can reduce flashpoints that lead to showdowns and crisis budgeting; focus congressional attention on the portion of the budget that is driving deficits and debt higher; and impose consequences for violating the process or ineffectively using resources.

BudgetSpeak

311

A section of the Congressional Budget Act of 1974 prohibiting consideration of legislation that exceeds the total spending levels allowed in the budget resolution for the current fiscal year or upcoming (budget) year, or causes overall revenues to fall below the budget resolution level for the current fiscal year, budget year, the 5-year total of the budget year and four ensuing fiscal years, or the total of 10 fiscal years covered. For example, the enforcement periods for S. Con. Res. 11, the fiscal year 2016 concurrent budget resolution, were fiscal years 2016, 2016-2020, and 2016-2025. Under the Senate's fiscal year 2017 stated levels, the new periods covered are fiscal years 2017, 2017-2021, and 2017-2026. While section 311(a)(2) of the Budget Act enforces spending and revenue aggregates, section 311(a)(3) prohibits any reduction in the difference between Social Security's overall off-budget receipts and outlays relative to resolution levels. If raised, a 311 point of order can be waived on the Senate floor with a three-fifths (60) vote.