

# Senate Budget-Process Proposal Offers Some Positive Reforms, But Biennial Budgeting Could Worsen Dysfunction

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## KEY TAKEAWAYS

The Senate Budget Committee's budget-process reform discussion draft would improve transparency and accountability in the budget process.

The most sweeping aspect proposes a biennial budget process. Biennial budgeting could worsen the fiscal outlook.

While the plan offers some common sense reforms, it would not fundamentally change the country's unsustainable budget outlook.

Congress has not completed each step of the budget process in its entirety—passing a budget and all individual appropriations bills before October 1—in 25 years.<sup>1</sup> This has led to a lack of oversight regarding what the federal government is spending money on—and has contributed to increased spending and rising levels of debt.

The nation's fiscal outlook is projected to worsen significantly in the next 10 years. Federal debt held by the public is projected to rise by nearly \$13 trillion by 2029.<sup>2</sup> It is clear that the current budget outlook is unsustainable, and lawmakers should act soon to avert a debt-driven economic crisis.

In July, Senate Budget Committee Chairmen Mike Enzi (R-WY) released four draft proposals aimed at creating a more responsible and accountable budget and spending process. The stated goal of Enzi's proposals is to “institute a more stable and accountable budget process” and end

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the current cycle of budgeting from one crisis to the next.<sup>3</sup> This is a worthwhile goal. However, given the current trajectory of spending and debt levels, making the process more stable and accountable is not enough. Congress should pursue bolder reforms to slow spending growth and stabilize the national debt.

Enzi's plan is broken into four categories: (1) strengthening federal fiscal controls; (2) increasing budget enforcement and accountability; (3) improving Congressional Budget Office (CBO) operations and transparency; and (4) streamlining Senate consideration of budget resolutions. The most fundamental process change would shift the budget resolution to a two-year cycle and, upon adoption of the budget resolution, automatically set discretionary spending levels and raise the debt limit.

Budgeting less often is not the answer to the nation's unsustainable budget problems. Congress should spend more time focusing on the drivers of spending growth and the national debt, not less. Likewise, automatically adjusting the debt limit lets lawmakers off the hook for what is rightfully a politically unpopular vote. Lawmakers should have to address the debt limit in a transparent and accountable manner should their fiscal choices cause a breach. Other elements of the proposal would implement commonsense reforms to improve budget enforcement, accountability, and the standards by which the CBO operates. However, they would not fundamentally improve the budget process or the nation's fiscal health.

## Improving Federal Fiscal Controls

The Senate Budget Committee discussion draft argues that it aims, first, to strengthen fiscal controls. The most sweeping component of this first part would adopt a biennial budget resolution cycle. Appropriations bills would continue to be debated every year. This is not a new concept. Last fall, the failed Joint Select Committee on Budget and Appropriations Process Reform recommended biennial budgeting as its primary recommendation.<sup>4</sup>

While a budget resolution is important for the budget-enforcement duties carried out by the House and Senate budget committees, it does not have the force of law. The spending levels prescribed by the resolution are enforced through procedural points of order that can easily be set aside.<sup>5</sup>

The Senate Budget Committee reform proposal would potentially change that: If Congress adopted the biennial budget resolution, a separate "spinoff" bill would automatically establish discretionary spending limits for two fiscal years—and automatically increase the debt limit to the level assumed in the budget resolution. The spinoff bill would go directly to the President without further congressional action, meaning that Congress would be able

to abstain from having to vote on both discretionary spending levels and the proposed increase in the debt limit.

The main argument presented by proponents for biennial budgeting is that it would provide greater certainty by setting topline numbers for the appropriations committees for multiple years. In theory, it would also leave more time for the budget committees to focus on oversight, scorekeeping, and other duties.<sup>6</sup>

A biennial budget process, however, is more likely to simply codify congressional dysfunction. The Budget Control Act of 2011 set spending caps for fiscal year (FY) 2012 to FY 2021. All but the first two years of the caps were modified through a series of four two-year spending deals.<sup>7</sup> Congress has thus been operating under a de facto biennial budget process since FY 2014. Over the past six fiscal years, there have been 20 continuing resolutions. In the second year of the two-year budget cap agreements, there were still three continuing resolutions each year, illustrating that set spending levels did not improve the budget process.<sup>8</sup>

In reality, biennial budgeting would further reduce the expectation on Congress to exercise its constitutional responsibility to oversee and control federal spending.<sup>9</sup>

Much like biennial budgeting, statutorily setting discretionary spending levels two years at a time could make the nation's debt problem worse. Projecting even a year into the future is difficult. Setting spending levels annually allows lawmakers to re-evaluate priorities and set levels according to needs.

Designating topline spending levels on a two-year basis will almost certainly lead to more supplemental spending requests in the future.<sup>10</sup>

Since the implementation of the Budget Control Act, there has been a spike in supplemental emergency, disaster, and non-defense war funding requests. For FY 2013 to FY 2019, Congress appropriated over \$287 billion in uncapped non-defense adjustments for these purposes.<sup>11</sup>

A two-year cycle would increase the occurrence of, and dependence on, such loopholes, because lawmakers could easily claim that a two-year budget may not have been equipped at the time it was passed for the challenges a certain agency or program faces in the present.

If Congress moved to a biennial budget cycle, lawmakers would also engage with the broader budget outlook less often. When it comes to making decisions about appropriations and other funding issues, they would be less informed of the fiscal context in which they are making those decisions. This would further weaken Congress' power of the purse.

Not passing budget and appropriations bills on time is a symptom of a dysfunctional Congress, not an ill-designed budget process. While

Congress has the “power of the purse,” it is up to the executive branch to execute the laws passed by Congress. When it comes to spending issues, lawmakers devote much energy to trying to manage and influence how the President executes those laws. The most recent example is Congress’s passage of a resolution to terminate President Trump’s declaration of a national emergency at the southwest border.<sup>12</sup> The longest government shutdown in U.S. history was caused in no small part by a disagreement over whether the President could use appropriated funding for additional border wall construction.<sup>13</sup> Moving to a biennial budget would not address underlying policy disagreements that have contributed to dysfunction in the appropriations process.

Automatically suspending the debt limit is equally troublesome. A similar rule was adopted earlier this year in the House rules package for the 116th Congress. That rule suspends the debt limit through the end of the fiscal year, once a budget resolution has been passed.<sup>14</sup> The Senate proposal goes a step further by raising the limit for a full two years.

The debt limit forces action to confront the nation’s debt growth, and offers an opportunity to correct course with spending reforms.<sup>15</sup> Automatically raising it allows lawmakers to avoid taking an important vote on the debt limit, thus reducing congressional accountability and ceding a fundamental duty that Congress has to the people.<sup>16</sup>

Another concern with the discussion draft is that it puts no mechanism in place to incentivize Congress to follow the biennial process. Any reform proposal geared toward improving the budget process should include elements that compel lawmakers to engage in the process prescribed by law. That motivation could come through stronger enforcement of deadlines or other means. Without incentives, it is unlikely that adopting a budget every two years would be any more successful than the current annual process.

An additional concern that comes with biennial budgeting is that it could reduce the number of opportunities to utilize the reconciliation process.<sup>17</sup> The Senate reform proposal addresses that issue.

In the first year of the biennial budget resolution, reconciliation would be available as under current law. In the second year, a special procedure would kick in allowing a second opportunity for reconciliation to be specifically used for deficit reduction. The process would be triggered if a report by the CBO indicates that the government is falling short of the debt to GDP targets expressed in the budget resolution.

Having a mechanism in place to realign actual federal spending with the targets set by the budget resolution is worthwhile. The problem with the Senate proposal is that there is no backstop. If Congress fails to pass

reconciliation legislation for deficit reduction, there is no enforcement mechanism to ensure that the debt levels contained in the budget resolution are met. Without an enforcement provision, such as sequestration, it is unlikely that lawmakers would implement the needed spending cuts.

The Senate Budget Committee reform proposal does make several changes to the budget baseline that could help to reduce spending. First, the discussion draft would no longer assume that budget cap adjustments for purposes such as disasters, emergencies, and Overseas Contingency Operations will continue permanently. This is an important step toward moving these categories of spending back into base department budgets.

Next, the baseline would account for appropriated funding at the most recently enacted level. Currently, the CBO baseline assumes that discretionary programs automatically grow with inflation. This creates a bias toward higher spending that is not based on actual agency and programmatic needs.<sup>18</sup> Accounting for appropriated funding at the most recently enacted level would remove the bias toward higher spending. Instead of operating under the assumption that agencies should automatically receive increased funding, Congress would be forced to closely review agency budget requests and justify new spending.

## Budget Enforcement and Accountability

The second discussion draft released by the Senate Budget Committee aims to improve congressional budget enforcement and accountability.

Rules are already supposed to be an important part of the budget and appropriations process, however, current enforcement mechanisms are weak and often ignored.<sup>19</sup>

The Senate Budget Committee's process reform proposal would increase transparency and accountability by requiring the CBO to provide updates of the cumulative effects of legislation to the budget committees. The committees would then be required to publish that information in the *Congressional Record* and a publicly available website.

Publicly tracking the effects of legislation will give citizens a better ability to evaluate and hold lawmakers accountable for the decisions that they make.

To strengthen budget enforcement, the second discussion draft would make two changes. First, it would give the Senate Budget Committee greater latitude to strike provisions of bills that violate the Congressional Budget Act of 1974. Specifically, provisions that would increase spending.

Under current law, this falls under a Section 306 point of order. A Section 306 point of order strikes against an entire bill, meaning that if the Senate

sustains the point of order, the bill is sent back to committee.<sup>20</sup> Often, the 306 point of order is used as a delay tactic.

The discussion draft would alter this provision to make the point of order “surgical,” meaning that the offending provision could be removed from the bill, without the underlying measure being displaced from the Senate floor. Having a surgical point of order against Section 306 violations would strengthen enforcement. While it would allow a bill to proceed, any deficit impact would still have to be accounted for under the Senate’s pay-as-you-go (PAYGO) rule.<sup>21</sup> However, the discussion draft would not prohibit the passage of an end-of-year PAYGO waiver that encompasses previous legislation.

The draft would also make it more difficult to waive points of order. Currently, all points of order can receive a “global” waiver, meaning that they can all be waived with one vote.<sup>22</sup> The committee proposal would disallow global waivers for surgical points of order, requiring that votes on points of order be taken individually. The prohibition of global waivers would allow legislation to be improved without ignoring all potential budget violations.

## CBO Operations and Transparency

The third objective of the Senate Budget Committee’s process reform proposal is to improve operations of the CBO and improve transparency within the agency.

First, the draft would require the CBO to report on the accuracy of its previous economic and legislative projections and submit an annual plan outlining the CBO’s current and future transparency initiatives. For estimates of major legislation, the plan would also require the CBO to publish underlying information that was used to estimate the fiscal impact.

Requiring more transparency from the CBO would help to improve public confidence in the agency and help to further solidify the CBO’s importance to the budget process.<sup>23</sup>

The proposal would also alter the content of CBO estimates by requiring the CBO to publish supplemental information that shows the projected interest costs of legislative estimates. Ensuring that lawmakers have a more complete view of the total impact of legislation is important in allowing them to make more informed choices.<sup>24</sup>

The discussion draft would also require the CBO to publish certain information related to appropriations legislation, such as the amount of changes in mandatory programs (CHIMPs) contained in a bill. CHIMPs are the most common appropriations gimmick. They allow spending to be

increased by tens of billions of dollars each year while generating almost no measurable savings.<sup>25</sup> CHIMPs that generate no outlay savings should be banned entirely, but publicizing their use in a more transparent way is a positive first step.

Finally, the draft would seek to improve operations and transparency by requiring the CBO and the Government Accountability Office to conduct portfolio reviews of federal spending as a means to identify duplication, overlap, and fragmentation among programs. It would also seek to improve the CBO's access to information from executive branch personnel, which could improve the accuracy and timeliness of CBO estimates.

## Limiting Budget Resolution Debate in Senate

Current law provides for up to 50 hours of general debate of a budget resolution in the Senate. After debate time has ended, what is known as "vote-a-rama" begins. This procedure has led to Senators introducing hundreds of amendments for consideration. Most of the time, these amendments are intended to force Members of the opposing party to take politically tough votes on subject matters that have nothing to do with the budget.<sup>26</sup>

The Senate budget-process reform proposal would move all budget debate, including amendments, within the 50-hour window. Twenty hours would be reserved for general debate of the bill while the remaining 30 hours would be devoted to amendments, allowing a minimum of 24 amendments to be debated.

A better approach than ending vote-a-ramas would be to disallow (or place a limitation on the number of) deficit-neutral reserve funds to be included in the budget resolution. Deficit-neutral reserve funds are often irrelevant amendments that are introduced as a means to discuss topics that are not consequential to the budget, without violating rules for what can or cannot be included in the resolution.<sup>27</sup> They can also be used as a way to hide bad policy during consideration of the budget resolution.

## Recommended Reforms to Improve the Budget Process

The Senate Budget Committee's process reform proposal offers a starting point for further discussion. While elements of the plan would incrementally improve scorekeeping practices, transparency, and Senate procedure, other proposals, such as biennial budgeting and automatically increasing the debt limit and setting appropriations levels, could make the nation's fiscal situation worse.

The committee should consider other reforms that would strengthen and build upon those proposed by Chairman Enzi to create a better-functioning budget process. It should also consider alternative proposals that would be more effective than biennial budgeting in bringing restraint back to the budget process. The Senate Budget Committee should:

**Pursue a Cap on All Non-Interest Federal Spending with Enforcement Through Sequestration.** As discussed in this *Backgrounder*, biennial budgeting is unlikely to improve the budget process, and could even make it worse. The discussion draft's proposal to implement a special reconciliation process specifically for deficit reduction is a positive step. However, without an enforcement mechanism, such as sequestration, it is unlikely that lawmakers would make the spending cuts necessary to meet the deficit targets expressed by the biennial budget resolution.

To ensure a more fiscally responsible budget process, Congress should establish a cap on all non-interest spending, with enforcement through sequestration. One approach would cap all federal non-interest spending based on the average annual revenue collected in the previous three years, with adjustments for inflation and population. Another approach would peg spending to a measure of potential gross domestic product to reflect the business cycle and tightening fiscal restraints when the economy is strong. With either approach, it would be up to Congress to determine how to achieve the savings determined by the outlay cap.<sup>28</sup>

Capping spending means putting Congress under a firm budget within which lawmakers must prioritize. If lawmakers are unable to agree on how spending reductions should be implemented, sequestration would serve as a backstop to ensure that the fiscal targets are met.

**Require a Separate Vote to Raise the Debt Limit.** Reaching the debt limit should serve as a moment for lawmakers to confront the repercussions of their spending decisions. Automatically raising it upon passage of the budget resolution, or suspending it, as has been the common practice since 2013, undermines the limit and allows Congress to avoid confronting broader fiscal issues. The Bipartisan Budget Act of 2019 suspended the debt limit for the eighth time since the passage of the Budget Control Act of 2011, allowing the federal government to borrow unlimited amounts through July 31, 2021.<sup>29</sup>

Congress should have to take a separate vote to increase the debt limit. Congress should maintain a debt limit and not waive it via suspensions. Anytime Congress decides to increase the debt limit, any increase should be accompanied by corresponding spending reforms to slow down the growth in the debt.

### **Define and Enforce a Clear Definition of “Emergency Spending.”**

One concern with implementing a biennial budget process is that it would lead to an increase in supplemental appropriations, particularly in the second year of the biennium. Abuse of the emergency spending declaration is already a problem. Use of the designation has been on a steep rise since enactment of the Budget Control Act as Congress has taken to abusing emergency spending as a loophole to fund unrelated programs.<sup>30</sup>

Congress and the President have too much latitude in deciding what qualifies as an emergency today. Lack of a clear definition has helped to fuel the growth of emergency spending and has provided an all-too-easy way for lawmakers to evade spending restraints.

To enhance accountability and transparency in emergency spending, Congress should clearly define by statute what qualifies as an emergency. To ensure that Congress cannot simply waive the statute, as is done with many budget-enforcement rules, the law should be enforced through a point of order that requires a two-thirds majority vote to waive.<sup>31</sup>

**Stop Appropriations for Unauthorized Programs.** By statute, an agency cannot receive an appropriation unless it was first authorized by Congress. Authorizations lay out how much money can be provided to an agency or programs and how that money is to be spent.

However, the budget rules against unauthorized appropriations are weak and ignored by Congress. In 2019, Congress provided nearly \$307 billion to programs with expired authorizations or programs that were never authorized at all.<sup>32</sup>

Authorizations are a key component of the budget process. They provide Congress with an opportunity to review and evaluate programs and determine whether they should continue to be a priority.<sup>33</sup> Authorizations are an important component of fiscal responsibility.

Congress should act immediately to end unauthorized appropriations. One approach could be to put unauthorized appropriations on a three-year path to sunset, as proposed in the Unauthorized Spending Accountability Act of 2019, introduced by Representative Cathy McMorris Rogers (R-WA).<sup>34</sup>

Under this plan, unauthorized programs would be reduced by 10 percent the first year, reduced by 15 percent the second year, and sunset in the third year if Congress fails to re-authorize them. The bill would also establish a full authorization schedule for discretionary programs and review mandatory programs to find potential cost savings.

Ending the practice of unauthorized appropriations would not only incentivize Congress to authorize agencies and programs, but also could generate budget savings when Congress fails to do so.

**Incentivize Congress to Follow the Budget Process.** One reason for the breakdown of the budget process is that there is no mechanism in place to compel Congress to achieve the milestones laid out by the act. The 1974 budget act clearly lays out a timetable for introduction of the President's budget, consideration of the congressional budget resolution, and the various steps of the annual appropriations process.

However, there is no penalty if Congress misses any of these steps along the way. In reality, the only thing that forces Congress to act on budget-related matters is the threat of a government shutdown when appropriations bills for the upcoming year are not passed by September 30.

There are various reforms that Congress could implement to compel lawmakers to engage actively in the budget process. The No Budget, No Pay Act of 2013 specified that if Congress did not pass the FY 2014 budget by April 15, 2013, lawmakers' pay would be withheld.<sup>35</sup> With the law in place, both the House and Senate passed budget resolutions before the end of March 2013. The 2013 law covered only FY 2014, and since then, the House and Senate have both adopted budget resolutions only twice. Making the law permanent, as proposed by Senator Mike Braun (R-IN), could incentivize Congress to pursue a budget every year.<sup>36</sup>

Another approach could be to delay other legislative items from moving through Congress if budget and appropriations milestones are not met. The power of the purse is one of the fundamental duties granted to Congress by the Constitution. If lawmakers are not performing that duty, perhaps other legislative activities should be suspended until they do so.

It is unlikely that lawmakers will adhere to any budget process without incentives to make them perform their budgeting duty, and to hold them accountable when they do not. Regardless of the mechanism to compel action, it is imperative that Congress have a mechanism in place to facilitate a better-functioning budget process.

## **Bolder Reforms Are Needed**

Senator Enzi should be commended for continuing to highlight the need for budget-process reforms. However, his major reform, biennial budgeting, could make the nation's fiscal situation worse.

Other elements of Enzi's plan are worthwhile, but these modest reforms will not be enough to divert the looming debt crisis. Congress should first take steps to ensure that lawmakers follow the budget process that is already in place. It should then turn its focus to reforms that will lead to a balanced budget and pay down the national debt. Strong enforcement measures,

such as automatic spending cuts, should be a part of any serious plan to reduce spending.

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## Endnotes

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