BUDGET BULLETIN
SENATE COMMITTEE ON THE BUDGET
CHAIRMAN MIKE ENZI | @BUDGETBULLETIN

114th Congress, 2nd Session: No. 13 May 12, 2016

Senate Budget Process Reform Proposals

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This year, the Senate Budget Committee has focused on legislative action to fix America's broken budget process. As detailed in the last issue of *Budget Bulletin*, expert witnesses testified before the committee in six separate hearings to diagnose problems and present solutions.

Over the course of the 114th Congress, a number of senators have offered their own new ideas and solutions. This *Bulletin* presents an overview of Senate proposals meant to improve and reinvigorate the congressional budget process.

Appropriations Reforms

One of the biggest frustrations regarding the appropriations process has been its departure from regular order. Instead of passing all 12 regular appropriations bills prior to the start of the fiscal year, Congress routinely resorts to late appropriations and omnibus measures. Fortunately, this year the Senate began floor debate on appropriations earlier than it has in any of the past 40 years. If this concerted effort to return to regular order succeeds, it would address some of the uncertainty and dysfunction that the following reforms aim to prevent:

Biennial Appropriations Act (Senator Enzi, S. 385) – Implements a biennial appropriations cycle that splits consideration of the regular appropriations bills between the two years of a biennium. More controversial appropriations measures would be enacted during non-election years. The budget resolution and defense appropriations bill would remain annually adopted. In off-years, appropriations subcommittees would hold joint oversight hearings with relevant authorizing committees.

Biennial Budgeting and Appropriations Act (Senators Isakson-Shaheen, S. 150) – Implements a biennial budget and appropriations cycle, meaning both the budget resolution and regular appropriations acts would provide allocations and appropriations for a two-year period. The budget resolution and all 12 appropriations bills would be adopted in non-election years.

End Government Shutdowns Act (Senator Portman, S. 334) – Provides for automatic enactment of a continuing resolution if any of the regular appropriations bills (or continuing resolutions to take their place) are not enacted by the start of the fiscal year. The automatic continuing resolution funds the unfunded portions of the discretionary budget at the previously enacted level for 120 days. The amount of funding is reduced by 1 percentage point after 120 days, and by an additional 1 percentage point every 90 days until full-year appropriations are enacted.

Legislative Performance Review Act (Senator Paul, S. 2454) – Establishes points of order in the House and Senate against (1) provisions in annual appropriations acts providing funding that has not been authorized, and (2) unlimited authorizations and authorizations lasting longer than four years. In the Senate, the points of order are surgical, meaning they can be raised against individual provisions in a bill, and may be waived by an affirmative vote of three-fifths of members duly chosen and sworn.

Expedited Motion to Proceed (Senate Rules Working Group) – Makes the motion to proceed to appropriations measures in the Senate non-debatable. The Senate could begin consideration of appropriations measures with a simple majority vote, rather than a 60-vote cloture motion. It also would avoid delays associated with the cloture motion, which must lay over a day and consume 30 hours of post-cloture time if successful. This proposal was considered as part of a Senate rules working group that examined improvements to floor procedures.

Budget Concepts

The last commission to conduct a comprehensive review of federal budget concepts concluded its work in 1967, nearly 50 years ago. As such, many of the rules governing the federal budget today are outdated or have proven flawed, depriving Congress of the most accurate information with which to make budget decisions and undermining budget enforcement rules meant to limit federal spending. The following proposals address how budget information is calculated and presented to Congress:

Baseline Reform Act (Senator Ayotte, S. 382) – Both the Congressional Budget Office and the Office of Management and Budget use baseline projections to calculate whether a proposed policy increases or decreases spending and revenues. Current law requires that these projections include automatic increases for inflation and other factors, meaning spending increases are sometimes considered a “cut” below the larger assumed baseline increase. S. 382 prevents automatic increases for inflation and other factors in baseline estimates of future discretionary spending, and requires the congressional and president's budgets to compare proposed spending with prior years instead of baseline projections.

Accurate Accounting Act (Senator Perdue, S. 2513) – Puts Social Security "on-budget" both for the congressional and president's budgets, but retains prohibitions against amending Social Security in reconciliation or using it as an offset. The legislation also requires the executive branch to adopt zero-based budgeting, which forces review of all funding as if it were newly appropriated, rather than an increase or decrease compared with baseline projections.

Currency Modernization (Senators McCain-Enzi) – When paper currency produced by the Bureau of Engraving and Printing is put into circulation, the Federal Reserve makes a profit since the face value of the bills exceeds the cost of their production. The Fed's subsequent remittance of those proceeds to the Treasury is recorded as budgetary revenue. When the U.S. Mint remits to the Treasury the profit it makes from minting coins, however, it is recorded not as budgetary revenue, but as a non-budgetary transfer. This proposal provides equal budgetary treatment to the profits the Treasury receives from the production of paper currency and the profits it receives from coin production.

Long-Term SCORE Act (Senators Crapo-Warner, S. 2260) – Requires the Congressional Budget Office to produce estimates for committee-reported legislation that project costs for each of the next four 10-year periods. Current cost estimates for almost all bills project spending and revenues just 10 years into the future, ignoring long-term budget effects.

Budget and Accounting Transparency Act (Senator Fischer, S. 399) – Stipulates that the budgetary cost of federal credit programs (loans and loan guarantees) be determined using a discount rate that incorporates market risk. By statute, the Congressional Budget Office currently uses "risk-free" Treasury borrowing rates to discount future cash flows, without including a risk premium. The Fischer bill aligns the accounting treatment of federal credit programs with that which currently applies to credit extended by publicly owned companies operating in the private sector.

Dynamic Scoring (Senator Portman, S. 200, S. 749) – Requires the Congressional Budget Office and the Joint Committee on Taxation to provide estimates of the macroeconomic effects of major fiscal legislation. S. 200 defines major legislation as tax proposals with costs exceeding 0.25 percent of gross domestic product in any fiscal year, while S. 749 applies to legislation with costs exceeding $15 billion in any fiscal year. Both bills also apply to large, revenue-neutral tax-reform bills. Estimates would include budgetary effects from changes in economic output, employment, capital stock, interest rates, and other macroeconomic variables caused by the legislation. Dynamic estimates would be provided for information only, as the static estimate would remain the official estimate. These bills would build on the dynamic scoring requirements contained in the conference report to accompany S. Con. Res. 11, the fiscal year 2016 budget resolution.

Dollar-for-Dollar Deficit Reduction Act (Senator Portman, S. 333) – Requires the Treasury Department to issue a warning when it determines that the federal debt limit will be reached within 60 days. When the president submits a formal request to Congress to increase the debt limit, it must be accompanied by the amount of the proposed increase and legislative language to reduce spending by a corresponding amount. The Portman bill also creates House and Senate points of order against any legislation increasing the debt limit, unless accompanied by equal spending cuts (excluding interest savings) over the next decade.

Incentivizing Congressional Budgeting

Prior to 1998, Congress never failed to adopt a budget resolution as required under the Congressional Budget Act of 1974. In the last 15 years, Congress has failed to adopt a budget more than half of the time. The following proposals are meant to incentivize members of Congress to adopt a budget resolution:

No Budget, No Pay Act (Senator Heller, S. 39) – Prohibits members of Congress from being paid if both houses have not approved a concurrent resolution and all 12 regular appropriations bills by October 1, the beginning of the fiscal year. Payment is prohibited for the period beginning on October 1 and ending when Congress complies with the act. Retroactive payment for that period of non-compliance is also prohibited. Compliance is determined by the House and Senate chairmen of the Budget and Appropriations committees.

Balanced Budget Accountability Act (Senator Daines, S. 493) – Withholds payment to members of Congress if their chamber does not adopt budget resolutions for fiscal years 2016 and 2017 that balance by 2025, with revenues not exceeding 18 percent of gross domestic product in the year they balance. The Congressional Budget Office determines whether a budget meets the requirements of the act. Payment is withheld only from the members of the non-compliant chamber and is released at the end of the congressional session in which the resolution is adopted. Future Congresses would eliminate pay based on failure to pass a budget. The legislation also applies a 60-vote threshold to Senate passage of legislation increasing revenues.

Regulatory Reform

Federal regulations impose significant economic costs on government, businesses, and individuals. Several committees and senators have held hearings and introduced legislation aimed at reducing this regulatory burden by establishing better economic analysis of the cost of regulation and implementing some form of regulatory budgeting:

Regulatory Budgeting (Senator Enzi) – In 2015, the Senate Budget Committee held two hearings on regulatory budgeting. The first, a joint hearing with the Homeland Security and Government Affairs Committee, discussed Canadian approaches, which are variations on a "one-in, one-out" regulatory cap. The second explored the idea of a regulatory budget pilot program. Budget Committee Chairman Enzi is pursuing legislation that incorporates both ideas.

The SCORE Act (Senators Collins-Klobuchar, S. 2015) – Amends the Congressional Budget Act of 1974 to establish a regulatory analysis division within the Congressional Budget Office to assess the impact of economically significant rules.

Administrative Procedures Act – The Homeland Security and Government Affairs Committee, and specifically its newly formed subcommittee on regulatory affairs, has held hearings on and reported legislation to improve the rulemaking process and overhaul the 1946 Administrative Procedures Act.

Independent Agency Regulatory Analysis Act (Senator Portman, S. 1607) – Grants authority to the president to mandate via executive order that independent agencies meet certain regulatory analysis requirements and submit the costliest rules to the Office of Information and Regulatory Analysis at the Office of Management and Budget for review.

Rulemaking Reform (Senators Lankford-Heitkamp, S. 1817, S. 1818, S. 1820) – Among other things, these bills codify regulatory process cost-benefit analysis and improve agency retrospective review of rulemakings.

BudgetSpeak

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A section of the Congressional Budget Act of 1974 prohibiting consideration of legislation within the jurisdiction of the Budget Committee that the Budget Committee has not reported or discharged. If raised, a 306 point of order can be waived on the Senate floor with a three-fifths (60) vote, allowing debate to continue. If, however, the presiding officer sustains the point of order, the measure is returned to the committee of jurisdiction. Examples of 306 violations include directed scorekeeping, language excluding budgetary effects of a bill from the Pay-As-You-Go scorecard, and changes to statutory discretionary spending limits.