

Report of the Joint Select Committee on Budget and Appropriations Process Reform

SUMMARY

The Joint Select Committee on Budget and Appropriations Process Reform (JSCBAPR) was established by the Bipartisan Budget Act of 2018 (BBA 2018), which was signed into law on February 9, 2018.¹ The JSCBAPR is a bipartisan, bicameral panel tasked with considering and recommending legislative language that will “significantly reform the budget and appropriations process.”² The JSCBAPR is comprised of 16 members, equally divided between the House and Senate. The Speaker of the House, the Senate Majority Leader, the House Minority Leader, and the Senate Minority Leader each appointed four members to the committee.³ House Budget Committee Chairman Steve Womack (R-AR) and House Appropriations Ranking Member Nita Lowey (D-NY) serve as co-chairs of this panel.

History

The Congressional Budget and Impoundment Control Act of 1974 (Budget Act) was enacted to establish an overall framework for the fairly decentralized process of making budget decisions in Congress—a process which involves numerous appropriations, authorizing, and revenue measures under the jurisdiction of various congressional committees and enacted on differing schedules. The Budget Act came five decades after centralization of Executive Branch budget decision making in what is now called the Office of Management and Budget (OMB).

In part, the Budget Act was a response to Executive Branch challenges to the primacy in budgetary matters that the Constitution grants to Congress, including President Nixon’s assertion of power to withhold spending of funds appropriated by Congress. Other factors included recognition of the growing complexity of the federal budget and concern over persistent budget deficits. The 92nd Congress created a Joint Study Committee on Budget Control, which called for procedural reforms to strengthen congressional budgeting. Following the actual impoundment of appropriated funds, Congress acted on the recommendations of the Joint Study Committee and passed the Budget Act in 1974.

The Budget Act provides for annual enactment of congressional budget resolutions to help Congress make an overall budget plan and set targets and limits for budget legislation to be considered during the year. It also established the Congressional Budget Office (CBO) to give Congress budget analysis capacity independent of the Executive Branch and created standing Committees on the Budget in the House and Senate to develop the annual budget resolutions and oversee the process.

Since that time, Congress has reviewed the budget process periodically and amended the Budget Act on several occasions, including in 1985 and 1990. More recently, concerns about delays and procedural breakdowns in the budget process triggered the creation of the JSCBAPR to assess the current congressional budget and appropriations processes and recommend reforms.

¹ Bipartisan Budget Act of 2018, P.L. 115-123 (2018).

² *Id.*

³ *Id.*

Procedures of the JSCBAPR

The deadline for the JSCBAPR to vote on recommendations, legislative language, and an accompanying report is November 30, 2018.⁴ For the JSCBAPR to pass proposed legislative and report language, it must receive votes of a majority of the committee members appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate; and a majority of the committee members appointed by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.⁵ This voting threshold was intended to ensure that the committee's recommendations and report are comprised of bipartisan reforms.

Upon approval by the JSCBAPR, the legislation and report will be transmitted to the President, Vice President, the Speaker of the House of Representatives, and the Majority and Minority Leaders of each Chamber of Congress.⁶ The following will then take place:

In the House of Representatives, the legislation will be introduced and considered under regular order.

In the Senate, the legislation will be introduced on the next session day by the Majority Leader of the Senate or his designee.⁷ The bill will then be referred to the Committee on the Budget, which shall report the bill without any revision and with a favorable recommendation, with an unfavorable recommendation, or without recommendation no later than seven session days after the bill's introduction. If the Committee on the Budget fails to report the bill within that period, the bill is automatically discharged from the committee and placed on the appropriate calendar.⁸ The BBA 2018 also makes in order for any Senator to move to proceed to consideration of the bill two days after it is reported or discharged from the Committee on the Budget. Debate on the motion is limited to ten hours and the support of three-fifths of the Senate is necessary to consider and approve the motion.⁹

PURPOSE

There have been numerous breakdowns in the budget process in recent decades. Fiscal year 1995 was the last time Congress passed a conference report on the budget resolution followed by passage of thirteen separate appropriations bills before the beginning of the new fiscal year.¹⁰

Continuing resolutions (CRs) have become the status quo for funding the Federal Government, demonstrating Congress's failure to complete its work on time. CRs create uncertainty for agencies and the American people. In many years, there has been concern that parts of the government would have to shut down due to failure to enact even stopgap appropriations, and shutdowns of various durations have actually occurred. In the 115th Congress alone, there have been two government shutdowns. Whether it is federal employees being furloughed, national parks shutting down, adverse effects on defense and law enforcement, shutdowns inflict severe damage and uncertainty on the nation's fiscal state. Additionally, multiple JSCBAPR members have expressed frustration regarding the lack of legislative tools available for Congress to address national needs or the national debt in a bipartisan manner.

⁴ Bipartisan Budget Act of 2018, P.L. 115-123 (2018).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Bill Heniff Jr., Congressional Budget Resolutions: Historical Information, Congressional Research Service, November 16, 2015.

COMMITTEE ACTION

Since April, the JSCBAPR has held five public hearings, fulfilling the requirement set forth in the BBA 2018. In addition to these formal, open hearings, the JSCBAPR has also held two closed briefings and multiple formal and informal meetings.

Hearings

April 17, 2018 — *Opportunities to Significantly Improve the Federal Budget Process*

During this hearing, members considered the current challenges facing the budget and appropriations processes in Congress and discussed possibilities for improvement. Witnesses included:

- Douglas Holtz-Eakin, Ph.D., President, American Action Forum
- Martha Coven, J.D., Lecturer and John L. Weinberg/Goldman Sachs & Co. Visiting Professor, Woodrow Wilson School of Public and International Affairs, Princeton University

May 9, 2018 — *Bipartisanship in Budgeting*

During this hearing, members discussed ways to ensure that the budget and appropriations processes work effectively and in a bipartisan manner regardless of political dynamics. Witnesses included:

- G. William Hoagland, Senior Vice President, Bipartisan Policy Center
- Donald R. Wolfensberger, Fellow, Bipartisan Policy Center; Fellow, Woodrow Wilson International Center for Scholars
- Emily Holubowich, Participant, Convergence Building a Better Budget Process Project; Executive Director, Coalition for Health Funding
- Matt Owens, Participant, Convergence Building a Better Budget Process Project; Vice President for Federal Relations and Administration, Association of American Universities

May 24, 2018 — *The Budget Resolution — Content, Timeliness, and Enforcement*

During this hearing, members examined the current purpose and role of the budget resolution and considered possible options, presented by expert witnesses, to bolster the budget resolution's impact and influence in the federal budget and appropriations processes. Witnesses included:

- Maya MacGuineas, President, Committee for a Responsible Federal Budget
- James C. Capretta, Resident Fellow and Milton Friedman Chair, American Enterprise Institute
- Bill Dauster, Former Democratic Staff Director and Chief Counsel, Senate Budget Committee
- Joseph White, Professor, Department of Political Science and Center for Policy Studies, Case Western Reserve University

June 27, 2018 — *Members' Day*

During this hearing, members of both chambers of Congress testified before the JSCBAPR on their ideas for improving the budget and appropriations processes. Members who testified before the JSCBAPR included:

- The Honorable Paul D. Ryan, Speaker, House of Representatives
- The Honorable Nancy P. Pelosi, Democratic Minority Leader, House of Representatives

- The Honorable Steny H. Hoyer, Democratic Minority Whip, House of Representatives
- Representative Hal Rogers (KY-05)
- Representative Pete Visclosky (IN-01)
- Representative Robert Aderholt (AL-04)
- Representative David Price (NC-04)
- Representative Rob Bishop (UT-01)
- Representative John Carter (TX-31)
- Representative Devin Nunes (CA-22)
- Senator Bob Corker (TN)
- Representative Jim Himes (CT-04)
- Representative Tom McClintock (CA-04)
- Representative Jim Renacci (OH-16)
- Representative Daniel Webster (FL-11)
- Representative Elizabeth Esty (CT-05)
- Representative Bill Foster (IL-11)
- Representative Keith Rothfus (PA-12)
- Senator Steve Daines (MT)
- Representative French Hill (AR-02)
- Representative Bruce Westerman (AR-04)
- Representative Warren Davidson (OH-08)
- Representative Pramila Jayapal (WA-07)
- Representative Roger Marshall (KS-01)
- Representative Lloyd Smucker (PA-16)
- Representative John Curtis (UT-03)
- Representative Ralph Norman (SC-05)

Additional statements were submitted for the record by:

- Representative Virginia Foxx (NC-05)
- Representative Mario Diaz-Balart (FL-25)
- Senator Dean Heller (NV)
- Representative Bradley Byrne (AL-01)
- Representative Paul Mitchell (MI-10)

July 12, 2018 — *Opportunities to Improve the Appropriations Process*

During this hearing, members considered the current challenges facing the appropriations process in Congress and discussed possibilities for improvement. Witnesses included:

- The Honorable Leon Panetta, Former Secretary of Defense, 2011-2013; Chairman, The Panetta Institute for Public Policy
- The Honorable David Obey, Former Chairman of House Appropriations Committee, 2007-2011

Briefings

April 11, 2018 — *Briefing with the Congressional Research Service*

Members of the JSCBAPR heard from experts from the Congressional Research Service (CRS) regarding the issues facing the budget and appropriations processes, past reform efforts, and potential options for the JSCBAPR to explore.

July 17, 2018 — *Briefing with the Congressional Budget Office and the Congressional Research Service*

Members of the JSCBAPR heard from experts from CBO and CRS on implementation and potential impacts of reforms considered by the JSCBAPR.

Committee Meetings

The JSCBAPR held multiple meetings, both formal and informal, since its establishment. These meetings provided a collegial opportunity for JSCBAPR members to discuss reforms to the budget and appropriations processes. These meetings also provided the basis for the recommendations made in this report. A listing of the JSCBAPR's informal working sessions follows:

March 7, 2018 — *Initial JSCBAPR organizing meeting*

August 22, 2018 — *JSCBAPR working group meeting*

September 13, 2018 — *JSCBAPR working group meeting*

September 26, 2018 — *JSCBAPR working group meeting*

RECOMMENDATIONS

Biennial Budgeting

Over the past few Congresses, there has been increasing support for a biennial budget. Since the first public meeting of the JSCBAPR, biennial budgeting has been viewed as a practical and needed solution to the continued delays in the current budget and appropriations processes. Additionally, the JSCBAPR has heard repeatedly from witnesses, as well as from multiple outside organizations across the political spectrum, that biennial budgeting is an excellent starting place for any budget and appropriations reform effort.

One of the principal arguments in favor of biennial budgeting is it will allow for more time in the budget process. Providing a 302(a) allocation for two years to the Appropriations Committees at the beginning of a Congress will allow for a smoother appropriations process. It will also allow the Appropriators additional time to engage in dialogue with the Executive Branch on the Administration's priorities.

Another key argument in favor of biennial budgeting is it will allow for more certainty in the budget process, particularly for Executive Branch entities. One of the chief complaints heard consistently by members of Congress and the JSCBAPR is that nearly every executive agency and department suffers under a protracted budget negotiation, delayed spending bills, and continuing resolutions.

A biennial budget would also provide Congress additional time to conduct oversight on federal agencies and departments. When Appropriators and authorizers have more certainty, they can turn their attention to those entities that they fund and oversee, respectively. This also serves to buttress Congress's constitutional authority and ensures that appropriated funds are being used responsibly and authorized programs are implemented consistent with Congressional intent.

Finally, biennial budgeting would free up time in the legislative calendar to enable Congress to not be mired down in annual budget resolution squabbles.

Second Session Revision of the Budget Resolution for Scoring Purposes

A requirement of a biennial budget resolution would be authority in the second year of a biennium to adjust the budget resolution's spending and revenue levels, committee allocations, and other amounts to reflect an updated baseline used for scoring purposes.

Realistic Deadline for Congress to Complete Action on a Biennial Budget

One of the challenges identified by the JSCBAPR is that Congress has continually failed to adopt a budget resolution by the statutorily required April 15th deadline. In those years in which Congress has adopted a budget resolution, it has adopted the budget resolution an average of 36 days after the target date.¹¹ This deadline does not reflect a realistic timeline. To this end, the JSCBAPR believes that setting a realistic and achievable deadline of May 1st for the first year of the biennium gives Congress an opportunity to complete its work on time.

Annual Supplemental Budget Submission by the President

While JSCBAPR members recognize that Article I entrusts in the Congress the power of the purse, members also have an appreciation that there is critical data that Congress requires from the Executive Branch to begin the budget building process. Specifically, CBO cannot begin constructing its baseline for the upcoming fiscal year without receipt of data, particularly prior-year and current-year spending, that is normally transmitted with the President's budget request. Without receipt of CBO's baseline, Congress generally cannot begin writing its budget resolution. To create additional time for developing the baseline, and therefore, the budget resolution and various appropriations bills, the JSCBAPR believes that the Executive Branch should be required to provide a supplemental budget submission that is separate from the President's policy proposals no later than December 1st of each calendar year.

This supplemental budget submission would include:

- Prior year fiscal data
- Current year fiscal data
- Credit re-estimates for the current year

This data would allow CBO to begin constructing the baseline, as well as subsequently enable the Budget and Appropriations Committees to begin their respective work in writing the budget resolution and appropriations bills earlier in the process. The President would then submit policy proposals later in the process, which would be considered as Congress continues its work on the budget resolution and annual appropriations bills.

¹¹ This does not include fiscal year 1999, fiscal year 2003, fiscal year 2005, fiscal year 2007, and fiscal years 2011 through 2015. See Bill Heniff Jr., Congressional Budget Resolutions: Historical Information, Congressional Research Service, November 16, 2015.

Encourage the Use of Best Practices in the Appropriations Process

The JSCBAPR notes that Congress was more successful this year than in other recent years moving appropriations bills through the process on a timelier basis, with five fiscal year 2019 appropriations measures, including the three largest, signed into law before the start of the fiscal year. One factor in this success appears to have been strategic combining of individual bills into multi-bill packages for initial consideration by the House and Senate, as well as for the final conference stage.

JSCBAPR members recommend that the Appropriations Committees review the record of recent practices for consideration of appropriations bills, identify practices which have been helpful in expediting action and increasing opportunities for member involvement at various stages of consideration, and build those successful practices into their work for future years. JSCBAPR members also recommend that the Appropriations Committees and other committees with responsibilities in this area study the best ways of using the new biennial budget resolution schedule to expedite congressional work on appropriations and other budgetary legislation.

Amendments to the Rules of the House of Representatives

To implement biennial budgeting, several technical and conforming changes to the rules of the House of Representatives are required.

Additionally, JSCBAPR members recommend eliminating term limits for House Budget Committee members. Eliminating term limits for members of the House Budget Committee would allow for a consistent and thorough level of expertise among all committee members to implement responsible budget priorities. It would also conform service on the House Budget Committee with the Senate Budget Committee, which currently does not have term limits.

Members of the JSCBAPR recommend that when the House considers the legislation and recommendations reported by the JSCBAPR, the House should also amend the Rules of the House of Representatives to enact these reforms. Members of the JSCBAPR recommend amending the Rules of the House of Representatives as follows:

Resolved,

Section 1. Amendments to the Rules of the House of Representatives to effectuate biennial budgeting.

(a) Clause 4(a)(4) of rule X is amended by striking “any allocations” and inserting “its allocation for the budget year”.

(b) Clause 4(b)(2) of rule X is amended by striking “for each fiscal year”.

(c) Clause 4(b) of rule X is amended by striking “and” at the end of subparagraph (5), by striking the period and inserting “; and” at the end of subparagraph (6), and by adding at the end the following new subparagraph:

“(7) use the second session of each Congress to study issues with long-term budgetary and economic implications.”.

(d) Clause 4(f) of rule X is amended –

(1) by striking “fiscal year” the first place it appears and inserting “biennium”;

- (2) by striking “that fiscal year” and inserting “each fiscal year in such ensuing biennium”; and
- (3) in subparagraph (1) by striking “six weeks after the submission of the budget by the President” and inserting “March 1”.

(e) Clause 3(d)(1)(A) of rule XIII is amended by striking “five” both places it appears and inserting “six”.

Section 2. Membership of the Committee on the Budget.

(a) Clause 5(a)(2) of rule X is amended –

- (1) by striking subdivisions (B) and (C); and
- (2) in subdivision (A), by striking “(A)” and by redesignating items (i), (ii), and (iii) and subdivisions (A), (B), and (C), respectively.

(b) The amendment made by subsection (a) shall take effect immediately before noon, January 3, 2019.