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This is why the congressional budget process is broken

By Molly E. Reynolds October 26

The Republican House and Senate have now adopted their annual budget resolution, missing the legal deadline by more than six months. Congress has also failed to pass a single regular spending bill for the fiscal year that began on Oct. 1, opting instead for a stopgap measure that runs out in early December. This is nothing new: Congress hasn't completed work on all of its spending bills by the Oct. 1 deadline since 1996, and in some years hasn't even bothered to adopt a budget blueprint.

Established in 1974, the congressional budget process now seems broken. Partisan conflict and creaky rules have undermined the process, and with it Congress's budgetary discipline.

This is how it's supposed to work

Under the Congressional Budget Act, fiscal work is supposed to proceed in an orderly, scheduled way each year. The president is to submit a budget proposal by the first Monday in February, and Congress is to adopt its own blueprint by April 15. This congressional budget resolution can, but does not have to, set up the fast-track reconciliation process, described in more detail below. The budget resolution is not signed into law, but it can represent an

important statement of a party's priorities — and has become a highly partisan document. No member of the minority party has voted for a budget resolution offered by the majority party since 2008. And 1997 was the last year that a budget resolution received more than a small handful of minority party votes in either chamber.

The Appropriations Committees in both chambers are to follow with a set of separate spending bills; since 2007, there have been 12. Each deals with particular federal functions, such as defense or the environment, and are to be completed before the start of the next fiscal year on Oct. 1.

Annual spending bills bear greater political burdens

Lawmakers and party leaders come to Washington with many policy and political goals, but when Congress is as gridlocked as it has been in recent years, they find fewer opportunities to pursue them. Instead, the few “must-pass” bills considered each year, including the spending measures needed to keep the federal government running, become the only outlets for these legislative hopes.

Managing such conflict on budget-related measures in the House is made more difficult by the rules governing how leaders bring spending bills to the floor. Under long-standing House practices, the majority party's leaders tend to allow individual legislators wide latitude to offer amendments to spending measures.

Through the mid-1990s, leaders treated a wide range of House bills the same way, leaving them open for amendment. But in recent years, those opportunities have all but disappeared on non-spending bills. Since 2011, the House Rules Committee has sent only 11 non-spending measures to the floor under open rules. When their ability to influence other bills is limited, lawmakers channel their amendments to spending bills. In some cases — such as when, in 2015, a House member offered an amendment that would have allowed the Confederate flag in federal cemeteries — such efforts can

derail the appropriations process altogether.

Budgets are free from filibusters but not conflict

Under the Congressional Budget Act of 1974, neither budget resolutions nor reconciliation bills can be filibustered. Filibusters have become extremely common in the contemporary Senate, so that few bills can pass unless backed by at least 60 Senators. Since Senate majorities that large are rare, these measures become especially attractive vehicles for achieving partisan goals.

When there's no filibuster threat, Senate leaders have a harder time limiting senators' ability to offer amendments to the budget resolution. As a result, budget resolutions now regularly involve a vote-a-rama, a lengthy series of back-to-back votes that extends late into the night. Senators have seen their chances to amend other bills become increasingly subject to complex, off-the-floor negotiations. And so they take advantage of the budget rules by filing hundreds of largely symbolic amendments as a way of recording their own positions and forcing partisan opponents to state theirs.

Since the early 1980s, the Senate majority has, in some years, wanted to use the reconciliation rules to advance a filibuster-proof bill. But before the majority can introduce a reconciliation bill, it has to adopt a budget resolution. That can lead to even more conflict, since the majority is motivated to pass a budget by any means necessary.

That's what happened in January when the new Republican Congress adopted a "shell budget" without specific policy details more than three months after the start of the fiscal year. In adopting this bare bones budget, the majority laid the groundwork for a reconciliation bill that would repeal Obamacare — and couldn't be filibustered, enabling passage without any Democratic votes. (Of course, that failed when Republican Sens. Susan Collins, Lisa Murkowski and John McCain voted against it.)

While Republicans have abandoned ACA repeal, they're using the reconciliation tactic again. Using parameters set in the newly adopted budget resolution, they are hoping to rush through tax cuts in a filibuster-proof bill that would not require any Democratic votes.

The partisan environment doesn't help either

One frequent criticism of the current budget process is that Congress has been loading up omnibus spending bills that cover many parts of the federal government rather than considering each subject-specific spending measure individually.

Work by political scientist Peter Hanson suggests that, in the Senate, parties have been relying on one or few large spending measures in response to broader partisan dynamics. Unlike the budget resolution, spending bills can be filibustered. This means some minority party support is needed, first to bring the bill up for debate and then for eventual passage. When the Senate majority is small — like Republicans' current 52-seat coalition — and when the parties are polarized, it's harder to get this necessary cooperation.

Putting individual spending bills on the floor also forces senators to take politically difficult votes that potential opponents could highlight and challenge come the next election season. To help their own members avoid such scrutiny and to reduce the number of times they need to attract minority votes, majority party leaders take the omnibus route instead.

The cohesion of the majority party — or lack thereof — also matters. In recent years, one symptom of House Republicans' internal divisions has been a bloc of members unwilling to vote for omnibus spending bills. When that faction has been large enough that there were not enough Republican votes to pass the measures, Republican leaders have had to turn to Democrats for help keeping the government open. The leverage this gives Democrats makes must-pass omnibus bills targets for other partisan fights — as we see with an emerging conflict over immigration policy ahead of

Congress's December deadline for passing its next spending bill.

Where do we go from here?

Without a functioning budget process, it is difficult for Congress to serve as a responsible steward of the nation's resources. When short-term spending bills are the norm because Congress cannot complete its work on time, federal agencies, uncertain about funding levels beyond the next few months, are unable to plan effectively for the long term.

Congress's operations are quite different today from when the Congressional Budget Act was adopted in 1974. They're even more different than they were in the late 19th century, when the House and Senate first launched individual appropriations subcommittees that would specialize in crafting specific spending bills for separate floor consideration — the same basic approach to which Congress unsuccessfully aspires today.

Scholars and practitioners with very different perspectives have suggested many options, from eliminating the opportunity to filibuster the motion to take up spending bills in the Senate to biennial budgeting. But without changes in the partisan landscape, rule changes alone are unlikely to restore Congress's budgetary discipline.

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 **13 Comments**

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