

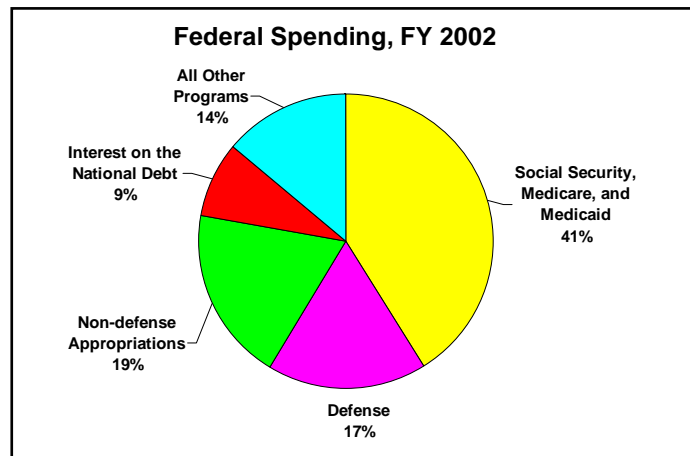
INTRODUCTION TO THE FEDERAL BUDGET PROCESS

By Martha Coven and Richard Kogan

The way in which Congress develops tax and spending legislation is guided by a set of specific procedures laid out in the Congressional Budget Act of 1974. Most importantly, the Budget Act calls for the annual development of a congressional “budget resolution.” This resolution sets overarching limits on spending and on tax cuts that apply to legislation developed by individual committees — including the appropriations committees, tax-writing committees, and other committees that have jurisdiction over certain spending programs — as well as to any amendments offered to such legislation on the House or Senate floor.

Following is a brief overview of the key steps in the federal budget process and various critical aspects of that process, including:

- the President’s budget request, which kicks off the budget process each year;
- the congressional budget resolution — how it is developed, what it contains;
- how the terms of the budget resolution — and the limits it sets on spending and tax cuts — are enforced on the House and Senate floor; and
- budget “reconciliation,” a special procedure used in some years to facilitate the passage of spending and tax legislation.



Step One: The President’s Budget Request

On or before the first Monday in February, the President submits to Congress a detailed budget request for the next federal fiscal year, which begins on October 1. This budget request, developed by the President’s Office of Management and Budget (OMB), plays three important roles. First, it tells Congress what the President believes overall federal fiscal policy should be, as established by three main components: (1) how much money the federal government should spend; (2) how much it should take in as tax revenues; and (3) how much of a deficit (or surplus) the federal government should run, which is simply the difference between (1) and (2).

Second, the budget request lays out the President’s relative priorities for federal spending — how much he believes should be spent overall on defense, agriculture, education, health, and so on. The President’s budget typically sketches out fiscal policy and budget priorities not only for the coming year but for the next five years or more, and is accompanied by historical tables that set out past budget figures.

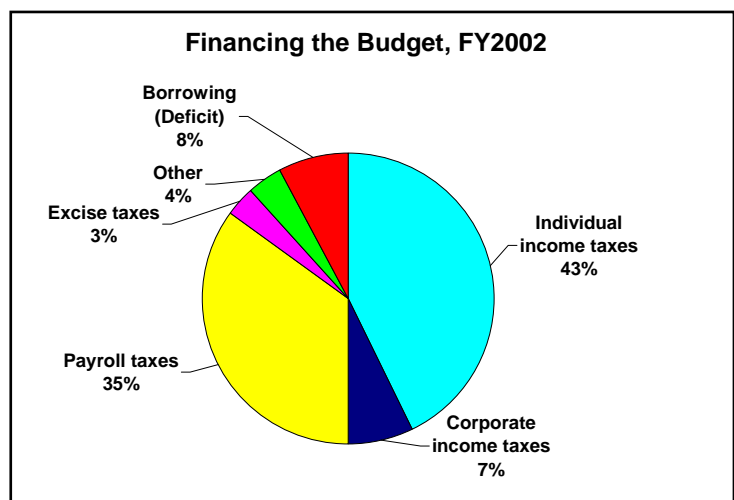
The third role that the President’s budget plays is to signal to Congress what spending and tax policy *changes* the President recommends. About five-sixths of the budget is made up of spending or taxes that are already part of permanent law, so the President does not need to propose legislative change if he feels none is needed. Nearly all of the federal tax code is set in permanent law, and will not expire; almost two-thirds of spending — including the three largest entitlement programs (Medicare, Medicaid, and Social Security) — is also permanently enacted. Similarly, interest paid on the national debt is set automatically, with no need for specific legislation.

The one type of spending the President *does* have to ask for each year is:

- **Annual “discretionary” or “appropriated” spending**, which is spending that falls under the jurisdiction of the House and Senate Appropriations Committees. Any discretionary program must have its funding, or “budget authority,” renewed each year in order to continue operating. Most defense spending is discretionary, as is spending on education, health research, and housing, to name just a few examples. Altogether, discretionary spending comprises about *one-third* of all federal spending. The President’s budget spells out how much he recommends spending on each specific discretionary program.

The President’s budget can also include:

- **Changes to “mandatory” or “entitlement” spending programs**, such as Social Security, Medicare, Medicaid, and certain other programs (including food stamps, federal civilian and military retirement benefits, and unemployment insurance) that are not controlled by annual appropriations. For example, if the President proposes adding a prescription drug benefit to Medicare, he would have to show a corresponding increase in Medicare spending in his budget, relative to what Medicare spending would otherwise be under current law. Similarly, the President could propose a change in payments to states under Medicaid that would lead to less spending than projected under current law.



- **Changes to the tax code**, including any new tax breaks the President wishes to enact. Any tax break (or tax increase) would affect the amount of federal revenue expected to be collected in that year or in future years.

In other words, the President’s budget requests a specified *level* for appropriated programs, and may request *changes* in tax and entitlement law if desired.

Step Two: The Congressional Budget Resolution

After receiving the President’s budget request, Congress generally holds hearings to question Administration officials about the budget, then proceeds to develop its own budget resolution. This work is done by the House and Senate Budget Committees, whose sole function is to draft the annual budget resolution. Once the committees are done, their budget resolution goes to the House and Senate floor, where it can be amended (by a majority vote).^{*} It then goes to a House-Senate conference to resolve any differences, and a conference report is passed by both houses. The budget resolution is a “concurrent” congressional resolution, not an ordinary bill, and does not go to the President for his signature or veto. It also requires only a majority vote to pass, and is one of the few pieces of legislation that cannot be filibustered in the Senate. The final budget resolution is supposed to be passed by April 15, but it often takes longer.

- **What is in the budget resolution?** The congressional budget resolution itself is a very simple document. It consists of a set of numbers that state how much Congress is allowed to spend in each of 20 spending categories (known as budget “functions”) and how much total revenue the government will collect, for each of the next five or more years. (The Congressional Budget Act requires that the resolution cover a minimum of five years; Congress often chooses to develop a 10-year budget.) The difference between the two totals for each year — the spending ceiling and the revenue floor — represents the deficit (or surplus) expected for that year.
- **How spending is defined: budget authority vs. outlays.** The spending totals in the budget resolution are stated in two different ways. One is the total amount of *budget authority* that is to be provided, and the other is the estimated level of expenditures, or *outlays*. The difference between the two is mostly about timing. Budget authority is the money that Congress allows a federal agency to commit to spend when it passes legislation that funds a program or project; outlays are how much money actually flows out of the federal treasury in a given year. For example, a bill that appropriated \$50 million for building a bridge would cost \$50 million in budget authority in the same year, but might not result in \$50 million in outlays until the following year, when the bridge actually gets built. The two measures of spending serve different purposes. Budget authority represents a limit on how much funding Congress will

^{*} For more than two decades, the House leadership has not allowed the budget resolution to be amended freely on the floor. Instead, the Rules Committee — an arm of the leadership whose role is to develop resolutions that restrict floor debate — has generally allowed for the consideration only of a few “substitute” amendments. These are alternative budgets, typically developed by the minority party and/or caucuses within the House that have a particular interest in budget policy.

provide, and is generally what Congress focuses on in making most spending decisions. Outlays, because they represent actual cash flow, help determine the size of the overall deficit or surplus.

- **How committee spending limits get set: 302(a) allocations.** In addition to the spending and revenue table in the budget resolution itself, there is an important table in the report that accompanies the resolution, called the *302(a) allocation*. This table takes the total spending figures that are laid out by budget function in the budget resolution and instead distributes these totals by congressional committee. The Appropriations Committee gets a single 302(a) allocation for all of its programs; it then decides on its own how to divide up this total among its 13 subcommittees. The various committees with jurisdiction over mandatory programs each get a single allocation that represents a total dollar ceiling on all the legislation they produce that year. This table looks slightly different in the House and Senate, since committee jurisdictions vary somewhat. Also, not every committee gets an allocation that represents an increase or decrease in mandatory spending; sometimes the committee's allocation merely states the level of mandatory spending under current law.

The spending totals in the budget resolution do *not* apply to the “authorizing” legislation produced by most congressional committees. Authorizing legislation typically either changes the rules for a federal program or provides a limit on how much money can be appropriated for it. Unless it involves changes to a mandatory program (such as Social Security or Medicare), authorizing legislation does not actually have a budgetary impact. For example, the education committees could produce legislation that authorizes a certain amount to be spent on Title I reading and math programs for disadvantaged children. However, none of that money can be spent until the annual Labor-HHS *appropriations* bill — which includes education spending — sets the actual dollar level for Title I funding for the year.

The report accompanying the budget resolution also often contains language describing the assumptions behind it, including how much it envisions being spent on particular programs, but these generally serve only as guidance to the other committees, and are not binding on them. However, the budget resolution sometimes includes more complicated devices intended to wall off a certain amount of money for particular programs, at a more program-specific level than is provided for by the 20 functional totals or the committee allocations. For example, the budget resolution could create a “reserve fund” to which a congressional committee would only have access if it reported legislation on a specific subject that met certain criteria.

The budget resolution can also include temporary or permanent changes to the federal budget process. For example, the 2004 budget resolution contained a provision limiting the amount of money that the 2005 budget resolution can allocate to the Appropriations Committees, and created a point of order – waivable only by the vote of 60 Senators – to enforce that limit.

The Senate “PAYGO” Rule

Independent of the Congressional Budget Act, the Senate has another rule that governs tax cuts and entitlement spending, known as the “PAYGO” rule. The Senate recently agreed to a new, weakened version of this rule. It now requires tax cuts and entitlement spending increases to be fully offset, or “paid for,” *unless* they fit within the numerical targets in the budget resolution.

For instance, if the budget resolution allows for a total of \$300 billion in new tax cuts and entitlement increases combined, then any bill costing \$300 billion or less does not have to be paid for under the new PAYGO rule.

While the PAYGO rule is largely duplicative of the Budget Act, there are a few situations in which legislation might violate one but not the other.

- Budget resolutions enforce their allowances for tax cuts and entitlement increases with *separate* targets for the two types of legislation. Under the Budget Act, the Senate generally cannot pass a bill that contains smaller tax cuts and larger entitlement increases than called for, or vice versa. But the Senate PAYGO rule combines the two types of legislation and enforces a *single* target.
- The Senate PAYGO rule is enforced over four separate time periods: (1) the current fiscal year; (2) the coming fiscal year; (3) the coming year plus the next four (i.e. years “1 through 5”); and (4) years 6 through 10. But the Budget Act does not even require that years 6 through 10 be included in the budget resolution, much less that dollar targets for those years be enforced separately.

Legislation that violates the PAYGO rule requires *60 votes* in order for the Senate to consider it.

How Are the Terms of the Budget Resolution Enforced?

The main enforcement mechanism that prevents Congress from passing legislation that is not in keeping with the budget resolution is a procedural “point of order” that can be raised on the House or Senate floor. In recent years, this budget point of order has not been particularly important in the House, where it can be waived by a simple majority vote on a resolution developed by the leadership-appointed Rules Committee, which sets the conditions under which a bill will be considered on the floor. However, the budget point of order is very important in the Senate.

Any legislation that exceeds a committee’s spending allocation — or cuts taxes below the level allowed in the budget resolution — is vulnerable to a budget point of order on the Senate floor. This point of order requires *60 votes* to waive. Appropriations bills — or amendments to them — must fit within the 302(a) allocations (and the 13 suballocations) for the coming fiscal year. A tax or entitlement bill — or any amendments offered to it — has to fit within the budget resolution limits on spending for the committee of jurisdiction, or fit within the revenue floor, both in the first year *and* over the total five (or more) year period provided for in the budget resolution. This makes it difficult to play certain timing games, such as when a bill or amendment seems inexpensive in the first year because of the way it is designed, but explodes in cost over the next several years. The cost of a tax

or entitlement bill is determined (or “scored”) by the nonpartisan Congressional Budget Office, which measures it against a budgetary “baseline” that projects entitlement spending or tax receipts under current law.

The Budget “Reconciliation” Process

From time to time, Congress has chosen to make use of a special procedure outlined in the Congressional Budget Act, known as “reconciliation.”* This procedure was originally designed to facilitate the passage of deficit reduction legislation, because Congress quickly came to realize that points of order only constrained spending increases or tax cuts, and a new tool was needed to enforce a budget resolution that contained spending cuts or tax increases. However, reconciliation has been used twice during the Bush Administration (in 2001 and 2003) to pass tax cutting legislation as well.

- **What is a reconciliation bill?** A reconciliation bill is a single piece of legislation that typically includes multiple provisions, often developed by several congressional committees, all of which impact the federal budget — whether on the spending side, the tax side, or both. Like the budget resolution, a reconciliation bill cannot be filibustered on the Senate floor, so it can pass by a majority vote.
- **How does the reconciliation procedure work?** If Congress decides it may want to use the reconciliation procedure, language known as a “reconciliation directive” must be included in the budget resolution. The reconciliation directive instructs various committees to produce legislation hitting certain spending or tax targets by a specific date, although the committees can choose whatever policies they want as long as they meet the budget targets. (If they fail to produce this legislation, the Budget Committee Chair gets to write amendments to meet the reconciliation targets for them, which is enough of a threat that committees generally comply with this directive.) The Budget Committees then package all of these bills together and present them on the floor for an up-or-down vote. After the House and Senate resolve the differences between their two bills, a final conference report is considered on the floor of each house, then goes to the President for his signature or veto.
- **Constraints on reconciliation: the “Byrd rule.”** While reconciliation presents an opportunity for Congress to bundle together a lot of different provisions affecting a broad range of programs, there is one major constraint on what can be included in a reconciliation bill. That constraint is the “*Byrd rule*,” named after Senator Byrd of West Virginia. This Senate rule makes any provision of the bill — or any amendment — that is deemed “extraneous” to the purpose of amending entitlement or tax law vulnerable to a point of order. If a point of order is raised under the Byrd rule, the offending provision is automatically stripped from the bill unless at least 60 Senators vote to waive the rule. This makes it difficult, for example, to include any policy changes in the bill unless they have direct fiscal implications. Under this rule,

* In this context, the term “reconciliation” does not have its ordinary meaning of two parties working out their differences (for example, the House and Senate are often described as going to conference to “reconcile” competing versions of a bill). Rather, the term “reconciliation” refers to the process by which congressional committees adjust, or “reconcile,” existing tax or entitlement law with the new tax or entitlement spending targets called for in the budget resolution.

authorizations of discretionary appropriations are not allowed, nor are changes to civil rights or employment law, for example.

In addition, the Byrd rule bars any entitlement increases or tax cuts that cost money beyond the five (or more) year window in the reconciliation directive, unless these “outyear” costs are fully offset by other provisions in the bill. This is a central reason why, when Congress passed major tax cutting legislation in 2001, it made all of the tax cuts expire in 2010, rather than making them permanent.