Committee for a Responsible Federal Budget

Rules Reform – Ideas for the 118th Congress
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At the beginning of each new session of Congress, the House of Representatives must agree on a new set of rules governing how business will be conducted over the coming two years. As many of these rules relate to the federal budget, lawmakers should use this opportunity to adopt a set of rules that encourage fiscal responsibility and shine a light on our nation's unsustainable fiscal outlook.

With inflation surging, interest rates rising, and debt approaching record levels, the 118th Congress should adopt common-sense rules that limit its own ability to add unnecessarily to deficits, enhance the information available to Members about the fiscal impacts of legislation before voting, plug loopholes in the broken budget process, and improve Members' understanding of our unsustainable fiscal outlook.

We lay out a number of suggested rule changes that fall into four categories:

- Reinforce Pay-As-You-Go (PAYGO) Rules
- Improve Cost Estimates of Legislation
- Bolster the Appropriations and Reconciliation Processes
- Bring Attention to Our Fiscal Challenges

Because the House must adopt an entirely new set of rules at the beginning of each Congress, the focus of this paper is on the House rules package. The Senate is not required to adopt new rules governing itself each session but could adopt similar rules through its own more complicated rules-making process.

While the rules we propose would help encourage fiscal responsibility, their effectiveness will ultimately be determined by Congress's own willingness to enforce and abide by them. Several of these proposed rules have been adopted in the past, only for Congress to waive them whenever they become inconvenient.

The House rules package should seek to limit the ability for lawmakers to ignore the rules they set for themselves, while at the same time improving the ability for voters to know when and why they do so. But ultimately, Members of both parties need to commit to improving rather than worsening the nation's fiscal outlook.

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Reinforce Pay-As-You-Go (PAYGO) Rules

Pay-As-You-Go (PAYGO) rules prohibit new legislation from increasing the federal budget deficit, requiring costs to be offset with spending cuts or tax increases elsewhere in the budget. Currently, PAYGO applies only to changes in direct – or mandatory – spending programs and revenues; it does not apply to discretionary spending, which is dealt with through the annual appropriations process, nor to any spending designated as "emergency" spending.

Although policymakers have adhered to PAYGO principles in several ways, the rule itself is enforced in two ways. Statutory PAYGO, which holds the force of law, is designed to prevent Congress from adding to the deficits over the course of a year, and is enforced with an across-the-board sequestration. Meanwhile, House and Senate PAYGO rules are meant to prohibit specific pieces of legislation from adding to the deficit and are enforced through a point of order. Both the law and rules are frequently waived.

Include PAYGO in House Rules with Very Limited Exemptions. The House should include PAYGO in its rules package and model it on the Senate's PAYGO rule, creating a point of order against violating PAYGO that any Member of the House can raise subject to a certain amount of debate. Although exemptions for true emergencies should be allowed, the rule should not include broad exemptions for certain types of legislation, like climate or COVID response legislation, which were exempted from PAYGO in the 117th Congress. The House should not adopt "CUTGO," as was in place from 2011 through 2018, in place of PAYGO. CUTGO exempts tax cuts from the offset requirement and does not allow revenue to be used as an offset.

Enhance Enforcement of PAYGO by Requiring a Standalone Vote to Waive. The House should enhance enforcement of PAYGO by requiring a standalone vote in order to waive it, ideally with a threshold for approval higher than a simple majority. Such a vote should be preceded by a certain amount of debate specifically devoted to a bill's potential PAYGO impact.

Apply PAYGO to Committees. Currently, the PAYGO rule applies only to legislation being considered on the House floor. At that late point in the legislative process, lawmakers may be tempted to simply set PAYGO aside instead of sending a bill back to committee so that offsets can be added. In order to provide a better opportunity to comply with the rule, PAYGO could be applied at the committee level, with rules allowing multiple committees to work together on different parts of the legislation. At the very least, committees could be required to include a statement in the report accompanying marked-up legislation stating whether the measure complies with PAYGO, and if not, why not.

Read PAYGO Statement Aloud on the House Floor. As part of the standard procedure for consideration and debate of legislation, House rules should require the House Reading Clerk to read aloud a statement on whether a given piece of legislation violates PAYGO. To waive this requirement, Members should have to take a standalone vote preceded by a certain amount of debate time devoted specifically to discussing a bill's PAYGO statement.

Improve Cost Estimates of Legislation

The Congressional Budget Office (CBO) is Congress's official scorekeeper and impartial arbiter for analyzing the budgetary effects of legislative proposals. Along with revenue estimates from the Joint Committee on Taxation (JCT), their analyses are vital for fiscally responsible lawmaking.

The House rules package should improve how CBO scores are generated and used, recognizing that additional resources may be needed to successfully implement some of the following recommendations.

Prohibit Votes Until 24 Hours After a Cost Estimate is Produced. The House rules should establish a point of order prohibiting consideration of any bill unless a comprehensive estimate of its fiscal impact from CBO or JCT has been made available to the public at least 24 hours prior to consideration. The score should reflect the exact bill under consideration. For any amendments offered, CBO should provide rough estimates of the potential range of impact. To waive this point of order, the House should require a standalone vote and should not allow it to be waived in a special rule.

Include Debt Service Effects in CBO Cost Estimates. CBO scores currently ignore the effect of legislation on debt service (interest costs). This both understates the full costs of legislation and makes it easier for lawmakers to use "timing gimmicks" to make legislation appear paid for. CBO should include debt service effects within legislative scores, which the director has said "would be feasible and require few additional resources."

Include Second-Decade Effects in Certain CBO Cost Estimates. Although CBO's cost estimates generally focus only on the first decade after enactment, House rules should require CBO to provide second-decade estimates for significant bills, where feasible. Even without producing year-by-year estimates, second-decade estimates can provide more information about the full fiscal impact of a bill and help expose various timing gimmicks.

Show the Permanent Cost of Temporary Policy Changes. When scoring the cost of legislation containing temporary provisions, CBO should include a supplemental estimate that assumes all such provisions are made permanent. This could expose efforts to use arbitrary sunsets to mask the true cost of policies within legislation.

Score Transfers from the General Fund to Trust Funds as Additional Costs. According to current CBO baseline and scoring conventions, transfers from the Treasury General Fund into the various trust funds – like the Social Security, Medicare, or Highway trust funds – are not counted as additional costs and therefore do not impact the statutory PAYGO scorecard. CBO should treat such transfers as additional costs subject to PAYGO.

Bolster the Appropriations and Reconciliation Processes

Congress's annual budget and appropriations process is in many ways broken and in need of reform. While Congress is technically required to approve a concurrent budget resolution by April 15th each year and to have passed all 12 individual appropriations bills by June 30th, these deadlines are not enforceable and are frequently missed.

Instead, Congress routinely delays the process until the last minute, often relying on temporary continuations of current-year appropriations levels to fund the government and avoid a shutdown. In fact, Congress has succeeded in passing all 12 appropriations bills on time on only four occasions since 1977. Meanwhile, budget resolutions have become rare, except when used to facilitate the budget reconciliation process to enact partisan legislation. While comprehensive budget process reform is sorely needed – much of which can only be accomplished through legislation – House rules can shore up the current process.

Eliminate Use of Deeming Resolutions. The most important technical purpose of Congress's annual budget resolution is to set an overall level for discretionary appropriations in the coming fiscal year, known as the 302(a) allocation. In the absence of a budget resolution, however, Congress sometimes passes "deeming resolutions" that serve the same purpose. These resolutions include only the 302(a) allocation for the coming fiscal year and are therefore "deemed" to serve in place of an actual budget resolution in the appropriations process. Deeming resolutions are poor substitutes for actual budgets and should not be allowed. Instead, the House should require an actual budget resolution to be passed before the appropriations process can move forward. Continuing resolutions could still be adopted in the absence of a budget resolution.

Restore the "Conrad Rule" Preventing Reconciliation from Increasing Deficits. From 2007 through 2015, the Senate had in place a rule that prohibited reconciliation bills from adding to the deficit over a five- or ten-year period. This rule – known as the "Conrad Rule" – was repealed in the Fiscal Year 2016 budget resolution. The House should adopt this rule by including it as part of its rules package and the Senate should follow suit. Moreover, the Conrad Rule should be codified into law in the same way PAYGO was through the Statutory Pay-As-You-Go Act of 2010. Congress could still use reconciliation to enact major pieces of legislation without needing 60 votes in the Senate, just so long as that legislation is paid for and does not increase deficits.

Bring Attention to Our Fiscal Challenges

While the annual budget and appropriations process in Congress frequently draws public attention and generates headlines, it only impacts approximately 30 percent of overall federal spending and none of federal tax revenues. The other 70 percent of federal spending – including spending on mandatory programs and interest on the debt – is essentially on "autopilot." Annual spending on mandatory programs is determined by the limits of the programs themselves, while spending on debt interest is determined by the size of the national debt and yields on different classes of outstanding Treasury securities. As a result, lawmakers are rarely ever forced to consider, much less vote on, the full scope of federal taxes and spending.

Establish a Fiscal State of the Nation Presentation with the Comptroller General. In order to ensure that lawmakers are fully aware of our unsustainable fiscal outlook, House rules should require the House Budget Committee to convene an annual joint public hearing with the Senate Budget Committee, featuring a presentation from the Government Accountability Office's Comptroller General on the "fiscal state of the nation." The presentation would provide a comprehensive outlook on the fiscal health of the country, relying on objective and non-partisan fiscal and economic projections from CBO. This concept has received bipartisan support in the past. In 2021, the House of Representatives voted unanimously in favor of a resolution to require such a presentation on an annual basis.

Display a National Debt Clock on the House Floor. To further ensure that the problem of our mounting national debt remains central to debates over legislation and at the forefront of the minds of lawmakers, the House could require a monitor be set up in the House chamber displaying the current national debt and other pertinent information regarding the nation's finances, updated on a real-time basis.

Conclusion

While the House rules package doesn't get much public attention, its adoption is one of the first actions a new Congress takes and thus provides an important opportunity to lay the groundwork for fiscally responsible lawmaking over the following two years. If Congress sets rules for itself that strongly encourage fiscal responsibility, then it's more likely Congress will behave in a fiscally responsible way. By contrast, if Congress sets rules for itself that are full of loopholes and exceptions, allowing Members to shirk fiscal responsibility when it becomes inconvenient, then that's exactly what we should expect Congress to do.

To be sure, lawmakers cannot address inflation or improve the fiscal outlook with rules alone. Legislation will be needed to bring revenue and spending more closely in line. Moreover, rules are only as strong as the willingness of Members to abide by them. Still, through well-thought-out rules that promote fiscal responsibility, Congress can set the tone for the coming two years and take an important step toward improving our unsustainable fiscal outlook.