Building Up Congress

A POCKET GUIDE

KURT COUCHMAN &
GRAHAM OWENS

Building Up Congress

KURT COUCHMAN &
GRAHAM OWENS

AMERICANS for PROSPERITY

Building Up Congress

A POCKET GUIDE

by

KURT COUCHMAN &
GRAHAM OWENS

All legislative Powers herein granted shall be vested in a Congress.

- U.S. Constitution

A republic, if you can keep it.

- Ben Franklin

As America marks 250 years of independence, we have many reasons to give thanks. Through freedom and opportunity, this nation has unleashed more prosperity and life-changing innovations than any other country in history.

But we can do better. The federal government is too big, too intrusive, and too expensive. And too often, it falls short on core responsibilities.

Congress has an opportunity to solve those challenges and put the American Dream back within reach of all citizens. But to do that, Congress needs to play its proper role. Over the last few decades, it has allowed legislative power to be usurped by the other branches of government. Today, Congress rarely sheds outdated or wasteful activities. It cannot control the spending and debt burdens that threaten the chaos of a debt crisis.

Reviving Congress can restore America's confidence. Congress must be able to budget well, update programs regularly, and uphold the Constitution's separation of powers. This booklet shows how.

Here's to the next 250 years!

PRESIDENT & CEO
AMERICANS FOR PROSPERITY

OBJECTIVES *for* CONGRESS

On June 28, 2024, in *Loper Bright v. Raimondo*, the United States Supreme Court overturned the 40-year-old *Chevron* doctrine, which granted agencies tremendous discretion to reinterpret the scope of their own authority, leading to unprecedented regulatory uncertainty and executive overreach. In overturning *Chevron*, the Supreme Court affirmed Congress' exclusive authority to make law under Article I of the Constitution, restoring the appropriate separation of powers as established by the Constitution. In overturning *Chevron*, the Supreme Court critically made clear that, absent express congressional authorization of an agency action, courts will no longer defer to the agency when the statute is ambiguous and, therefore, that action will likely not survive judicial scrutiny. Given this reality, it is critical that Congress speak unambiguously when it wishes to ensure federal agencies have the authority to promulgate regulations governing the health and safety of Americans. Above all, Americans for Prosperity stands ready to work with Congress to ensure the body has all the tools necessary to draft the type of unambiguous and robust legislation required after *Loper Bright*.

This booklet aims to provide members of Congress and their staff with a straightforward guide to understanding the objectives that must be achieved for Congress to properly reassert its Article I powers and reclaim its status as the federal lawmaking body from federal agencies.

From passing comprehensive budgets to empowering committees and following regular order, it is our hope that this hip pocket guide will serve as *the* resource for those ready to meet the moment.

OBJECTIVE 1: Reorder Congressional Incentives

For the decades when the *Chevron* doctrine enabled federal agencies to essentially determine the meaning of their own authorizing statutes — which they did not draft and which were almost always interpreted to provide more authority to the agency — Congress understandably fell into a toxic relationship with federal agencies. In short, Congress somewhat forgot that it had the power, even under the *Chevron* doctrine, to make difficult policy decisions rather than federal agencies and to override agency decisions Congress disagrees with. However, during that time, Congress regularly utilized its oversight authority to attack regulatory decisions and, in some instances, even join in legal challenges against said regulatory decisions, rather than introducing legislation that would have overridden the agency's problematic policy decisions.

While the Supreme Court has failed to reinvigorate the nondelegation doctrine, Congress still has the ability to enforce Article I's bar against Congress transferring its exclusive legislative power to other entities on its own. In other words, while still ensuring federal agencies do not run amok in the same way we saw throughout the life of *Chevron* deference, Congress must also ensure that all policy discussions start with the mental framework that Congress can supersede any agency action at any time. Even regulatory reform and government efficiency efforts cannot start with the idea that we must create an executive agency or commission to do the job that the Constitution already empowers and expects Congress to do. As shown below, by better utilizing regular order and congressional committees — including select committees where necessary — Congress is already equipped with many of the tools necessary to do the work it has delegated to federal agencies. This is not only good policy; but it is also constitutionally required, particularly following the *Loper Bright* decision.

OBJECTIVE 2: Create an Effective, Committee-driven Regular Order

Many experts who have weighed in on what Congress must do to meet the *Loper Bright* decision's mandate that Congress must do a better job of drafting legislation and clearly delegating responsibilities and authorities to federal agencies have stated that increasing congressional resources is vital.[1] While Congress may, in fact, require additional resources to rise to the occasion, there is much the legislative body can do with the resources it already has. It can start by prioritizing an effective, committee-driven regular order that empowers committees' leadership to drive policy decisions within their jurisdiction.

According to the Congressional Research Service (CRS), regular order is "generally viewed as a systematic, step-by-step lawmaking process that emphasizes the role of committees: bill introduction and referral to committee;

[1] *See, e.g.*, Bipartisan Policy Center, Legislating After *Loper*: Practical Solutions for a Post-*Chevron* Congress 16 (2025), https://bipartisanpolicy.org/report/final-report-and-recommendations/ (recommending the expansion of "resources available to Congress for drafting legislation, crafting clear language, and understanding constitutional and legal dynamics around proposed bills.").

the conduct of committee hearings, markups, and reports on legislation; House and Senate floor consideration of committee-reported measures; and the creation of conference committees to resolve bicameral differences."[2] By following some semblance of CRS' regular order definition, it becomes clear why it's so effective and critical for a properly functioning Congress, particularly following *Loper Bright* — and for much of the 20th century, legislative policymaking was driven mainly by committee chairs through regular order.

First, as noted above, following a committee-driven regular order enables Congress to squeeze as much juice as possible from the resources already available. Committee, subcommittee, and personal office staff are available at every level of debate — subcommittee hearings, subcommittee markups, full committee hearings, and ultimately full committee markups — to ensure legislation is fully vetted and debated. Further, it offers multiple touch points where members of Congress can seek input from constituents and outside groups with unique expertise willing to proffer advice on the best path forward, including Americans for Prosperity. Utilizing the vast array of think tanks, trade associations, and other

[2] Walter J. Oleszek, Cong. RSCH. Serv., R46597, The "Regular Order": A Perspective (2020), https://www.congress.gov/crs-product/R46597.

organizations inside and outside of the beltway with unique expertise and access to their own resources will be even more critical following *Loper Bright*, as these organizations can help ensure legislation is drafted with the clarity and thoughtfulness necessary — all while costing Congress little to nothing.

Second, following a committee-driven regular order allows for the strategic use of members of Congress' unique backgrounds and expertise. Committee chairs are traditionally selected through a system that prioritizes members of Congress' background and knowledge, as well as seniority. Senior members with significant legal expertise would find themselves leading the Judiciary Committees, while former educators would lead the Education Committees. As two congressional scholars put it, "House and Senate leadership resembled confederations of committee chairs, each acting as sovereign over a committee's jurisdiction."[3] In this way, a wide array of legislative policymaking on an equally wide array of issues could be managed simultaneously and debated by those in Congress best suited to weigh in on that particular policy area. Following full review of legislation by committees through regular order, those committees' leadership should be empowered to bring the bills to the floor for a vote.

[3] *Id.*

Lastly, by empowering committees and committee chairs to be the main policy drivers, less senior members of Congress are also empowered. At the committee and subcommittee level, less senior members are better able to introduce legislation, engage with witnesses during hearings, hold leadership positions, and offer amendments, among other critical lawmaking responsibilities. Further, if the full committee chair is empowered to bring bills to the floor of their respective chamber, then committee-level debates carry far more significance since the likelihood that a hearing or markup will actually impact legislation that will get a vote by the full chamber increases dramatically.

OBJECTIVE 3: Reset the Regulatory Landscape

The Supreme Court was quite clear when it overturned the *Chevron* doctrine: The regulatory landscape that developed over the last 40 years — when regulatory agencies could essentially determine their own authority so long as there was some ambiguity — was not compatible with the Administrative Procedure Act (APA) or the Constitution. As such, Congress must prioritize resetting the regulatory landscape to align with the Founding Fathers' vision and the Supreme Court's mandate. To achieve this critical objective, Congress must address two sub-objectives.

First and most importantly, Congress must create mechanisms for greater congressional review of regulations. There is no question that *Loper Bright* held that Congress must draft unambiguous and robust legislation if it wishes to authorize agencies to act. Yet, the reality remains that many previously passed laws and even future laws may still contain some ambiguities. For this reason, it is critical that Congress pass legislation requiring congressional approval of certain regulations before they take effect in light of the *Loper Bright* decision. One such bill that has often been branded "anti-regulatory" is the Regulations from the Executive in Need of Scrutiny (REINS) Act.[4] Many in Congress have long felt that such bills were intended to make regulation harder; however, after the *Loper Bright* decision, the reality is that these types of bills are more important than ever to protect the most vital regulations from the almost inevitable judicial scrutiny they will face. By enabling Congress to approve of regulations before their promulgation, these types of legislation will give a clear signal to courts that Congress has in fact authorized the agency to take such action, thereby giving confidence to Congress, the promulgating agency, and — most importantly — U.S. citizens that the regulation at issue is constitutional and will be valid law for years to come.

[4] Regulations from the Executive in Need of Scrutiny (REINS) Act, S. 485, 119th Cong. (2025).

Similarly, it is time for Congress to modernize the APA — essentially the regulatory constitution — to require federal agencies to go through a more robust process for promulgating major rules that would require regular reports to Congress and hearings. When the APA was first passed in 1946, Congress created two ways for agencies to promulgate regulations: formal rulemaking and informal rulemaking, which we know as "notice and comment" rulemaking. Yet, following the infamous "peanut butter rule" — where it took the Food and Drug Administration over 10 years to determine the percentage of peanuts needed for a product to qualify as peanut butter — federal agencies almost exclusively use the informal "notice and comment" process. Amending the APA to require a more robust rulemaking process for major rules would also give Congress additional opportunities to review regulations and agency actions, while also affording the regulated public with more due process.

Second, Congress should prioritize creating mechanisms for the retrospective review of regulations and effective sunsetting where necessary. Few would question the assertion that major projects require periodical reviews to ensure they are on the right path and achieving the intended outcomes. Yet, no such effective process exists for regulations. They are promulgated and then stay on the books with no retrospective review. Only the most controversial regulations typically get reviewed or repealed — which often creates the aforementioned "regulatory ping-pong" that is often no better than the bad regulation itself.

As such, Congress must prioritize creating a mechanism for periodically reviewing regulations to ensure they are achieving their intended goals, that the science backing the regulation has held up, and that they are still necessary. While creating a retrospective review process is fairly straightforward — requiring agencies to periodically look back on whether their regulatory actions have achieved their intended missions and whether the data and assumptions the regulatory actions were based upon held true — it simply does not happen.

This is not solely for lack of legislative efforts, however. The Regulatory Flexibility Act (RFA), for example, already requires federal agencies to review each rule that the agency determined would have a significant economic impact on a substantial number of small businesses within 10 years of the publication of the final rule.[5] In conducting this retrospective review, agencies are expected to determine whether they have had the intended effects and consequences and, most importantly, whether anticipated impacts on small businesses proved to be accurate. In other words, Congress intended this review to

[5] 5 U.S.C. § 610.

ensure agencies aren't regulating U.S. small businesses out of existence, given the outsized burdens regulations place on small businesses.[6]

However, this provision of the RFA has largely failed to live up to its promise, mainly because there are no real consequences when federal agencies fail to conduct them or conduct them as intended.[7] The RFA contains no

---

[6] *See, e.g.,* U.S. Small Bus. Admin. Office of Advocacy, Reforming Regulations and Listening to Small Business: Second Progress Report on the Office of Advocacy's Regional Regulatory Reform Roundtables 11 (2020), https://advocacy.sba.gov/wp-content/uploads/2020/04/2nd-Progress-Report-on-Reg-Reform-Roundtables.pdf (discussing the reasons why regulations are more burdensome for small businesses compared with their larger counterparts); Nicole V. Crain & W. Mark Crain, The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business: A Study Conducted for the National Association of Manufacturers 4 (2023), https://nam.org/wp-content/uploads/2023/11/NAM-3731-Crains-Study-R3-V2-FIN.pdf (finding the annual per employee costs of regulations is $14,700 (2023 dollars) for small businesses with less than 50 employees, compared with $12,200 for firms with 100 or more employees).

[7] *See* Dan Bosch & Rose Laoutaris, *The Failed Promise of Section 610 Reviews*, American Action Forum (Aug. 19, 2021), https://www.americanactionforum.org/insight/the-failed-promise-of-section-610-reviews/.

penalties for federal agencies that fail to comply with the retrospective review requirements, and while amendments passed in 1996 allowed for judicial review, no court has struck down a rule for failing to comply with *any* section of the RFA, let alone solely the review requirements.

As this example illustrates, for any retrospective review effort to have a genuine impact, Congress must ensure there are appropriate incentives for agencies to conduct them in the manner and time frame intended. Further, Congress must ensure that retrospective review requirements cover all federal agencies, including independent agencies that have not been required to follow executive orders issued by various administrations requiring retrospective reviews in some instances.

OBJECTIVE 4:

Reauthorize Federal Agencies

Congressional reauthorization of federal agencies is perhaps the best touchpoint for Congress to ensure federal agencies are conducting their business in accordance with Congress' intentions and are modernized as needed. However, reauthorizing federal agencies seems to be a thing of the past. For example, the Federal Trade Commission has not been reauthorized since 1996, the Small Business Administration has not been reauthorized since 2000, and the U.S. Drug Enforcement Agency hasn't been reauthorized since 2004.[8]

While federal agencies can still function without reauthorization so long as the money keeps coming in, Congress' failure to regularly reauthorize the agencies has led to agencies becoming "multi-billion-dollar zombie government programs."[9] Indeed, this failure also represents a failure by Congress to uphold one of the body's most important functions: oversight. While Congress certainly conducts oversight through letters, subpoenas, and hearings, it often does so in a piecemeal manner that is costly and less effective than the formal reauthorization process. The reauthorization process is also conducted at the committee level, which, as discussed above, affords numerous benefits.

Regular reauthorization of federal agencies would address the piecemeal oversight problem, while also providing Congress with regular opportunities to legislate as required by *Loper*. As Congress learns to adapt to the post-*Chevron* world, regular and timely reauthorizations would also create direct opportunities to legislate and review regulatory agencies — all through regular order and driven by committees.

---

[8] *See* Danny Vinik, *Meet your unauthorized federal government*, POLITICO (Feb. 3, 2016), https://www.politico.com/agenda/story/2016/02/government-agencies-programs-unauthorized-000036-000037/.

[9] *Id.*

OBJECTIVE 5:
Relearn How to Legislate

It is no secret that Congress has lost the ability to legislate effectively. This issue is even more pronounced when considering Congress' inability to pass smaller, single-subject legislation. While Congress employed the use of complex, multi-subject bills as early as 1826, until recently, they were used sparingly.[10] Instead, Congress utilized the "traditional lawmaking process" — the passage of smaller, single-issue bills — throughout most of its history.[11]

Today, Congress rarely considers much smaller, single-issue bills and almost defaults to mishmash legislation. Some might argue that this practice increases Congress' productivity, as it can address a multitude of issues with one vote.[12] Yet legislation's value to society—

[10] Evan Wright, *Omnibus Legislation and Separation of Powers: Too Big To Fail?*, 49 J. of Legislation 110, 117 (2022) (citing Chester Collins Maxey, *A Little History of Pork*, 8 Nat'l Mun. Rev. 691, 691 (1919)).

[11] *Id.*

[12] These comments refer primarily to authorizing legislation. Budget legislation necessarily involves allocations for diverse topics.

including updating programs for today's needs[13]—matters far more than legislative page counts. Smaller, single-issue bills also help members fine-tune proposals, and bad ideas are less likely to slip through because the issue is front and center rather than buried amongst many other policy proposals. This focused deliberation in turn creates more accountability to the public because constituents clearly see where their elected officials stand on an issue based on that vote.

Rather, the movement away from focusing on smaller, single-issue legislation has created more problems than it has solved, and Congress must relearn how to pass such bills, especially in light of the end of *Chevron* deference. According to one House report, the use of such bills creates three significant problems:

> What concerns many Members is that this practice (1) by-passes the normal, orderly legislative process in the House and necessitates hasty decisions on the floor without adequate consideration, (2) deprives House committees of

[13] Cong. Budget Office, Expired and Authorizations of Appropriations: 2025 Final Report (2025), https://www.cbo.gov/publication/61543.

> the right to consider matters pending before the House that fall within their jurisdiction, and (3) denies the House membership an opportunity to engage in meaningful debate on vital issues pending before it.[14]

As noted above, the Supreme Court made clear that Congress must pass clear and robust legislation that leaves as few ambiguities as possible. It should seem obvious that the likelihood of ambiguity in legislation grows exponentially with the number of pages and policy topics contained within a bill, especially since members are much less likely to be able to read the full bill text — let alone properly debate it — before voting. Who can forget the famous quote from then-Speaker of the House Nancy Pelosi referring to one such massive bill: Congress must "pass the bill so that you can find out what is in it."[15]

[14] Wright, *Omnibus Legislation* at 120 (citing H.R. Rep. No. 91-1215, at 9 (1970).

[15] Nancy Pelosi, Speaker of the House, U.S. H. of Rep., Remarks at the 2010 Legislative Conference for the National Association of Counties (Mar. 9, 2010).

OBJECTIVE 6:
Socialize Members & Staff in a Bipartisan Manner

Congress must promote regular, bipartisan socialization of members and their staff. According to the State of the Congress 2024 report, which was based on a survey of senior congressional staff conducted by the Congressional Management Foundation (CMF), a large majority (81%) said Congress is not "functioning as a democratic legislature should," and identified deficiencies in the institution, especially with regards to civility and bipartisan collaboration.[16] There is perhaps no better way to address these deficiencies and promote civility and bipartisan collaboration than by devising ways for members and their staff to socialize outside of work.

Most would agree that workplaces are more productive when the leaders and staff connect on a personal level and recognize each other as human beings

[16] Kathy Goldschmidt, State of the Congress 2024: An Assessment of the Civility, Functionality, and Capacity of the 118TH Congress By Senior Congressional Staff, Cong. Management Foundation (2024).

first and foremost. Indeed, as the Harvard Business Review noted, "[s]tudies show that connecting outside of work can help leaders and employees thrive in their work and improve team performance."[17] One such study found that "work relationships play a key role in promoting employee flourishing, and that examining the differential effects of a taxonomy of relationship functions brings precision to our understanding of how relationships impact individual flourishing."[18]

Indeed, the same conclusion was reached by former Rep. Derek Kilmer when he testified at the House Rules Committee's biennial "Member Day Hearing on Proposed Rule Changes for the 119th Congress" last year.[19]

[17] Kristie Rogers, Beth Schinoff, et al., Research: The Best Ways to Connect with Colleagues Outside of Work, HARVARD BUSINESS REVIEW (Jul. 2, 2025), https://hbr.org/2025/07/research-the-best-ways-to-connect-with-colleagues-outside-of-work.

[18] MAY E. COLBERT, JOYCE E. BONO, ET AL., FLOURISHING VIA WORKPLACE RELATIONSHIPS: MOVING BEYOND INSTRUMENTAL SUPPORT, 50 ACAD. OF MGMT. J. 4 (Jul. 13, 2015), https://journals.aom.org/doi/10.5465/amj.2014.0506.

[19] *See* Don Wolfensberger, *Here's how to improve the way Congress works*, The Hill (Oct. 3, 2024), https://thehill.com/opinion/congress-blog/4911709-congressional-apocalypse-reform/.

Drawing from his experience cochairing the first bipartisan Select Committee on the Modernization of Congress, Rep. Kilmer suggested a non-policy bipartisan retreat at the outset of every Congress with mandatory attendance, as well as for committees to hold planning meetings at the start of each Congress to develop a bipartisan legislative agenda for that Congress.[20]

While such formal socialization would undoubtedly go a long way, there is no reason members cannot immediately promote bipartisan socialization through less formal means. For example, many years ago, it was not unheard of for Senior Committee staffers to hold regular, bipartisan happy hours in the committee rooms. Congressional softball leagues are also a great opportunity for staff socialization, yet even these have become partisan. Rarely are these teams made up of staff from both parties, yet there is no reason a state caucus cannot have a bipartisan team. Such events are easy to coordinate, inexpensive, and likely welcome for staff. Most importantly, it ensures that staff begins to treat each other as people instead of parties.

[20] *Id.*

SOLUTIONS
for CONGRESS

What Congress should do is clear: budget well, update programs regularly, and preserve the Constitution's separation of powers. Our representatives could do all of them better.

To coordinate federal activities effectively, Congress needs a comprehensive budget with all spending and revenue that involves all committees. The budget process must start on time, end on time, stay within reasonable guardrails, and avoid unproductive brinkmanship.

Updating programs will be easier when better budgeting makes resource allocation more intentional and less accidental. Additional supports and opportunities for committees to advance updates matter, too.

Finally, Congress can reclaim powers it has improperly delegated to the executive branch or which the executive has inappropriately claimed.

Strengthening Congress will give legislators more scope to apply their skills and talents to solve today's problems for the American people.

COMPREHENSIVE BUDGET

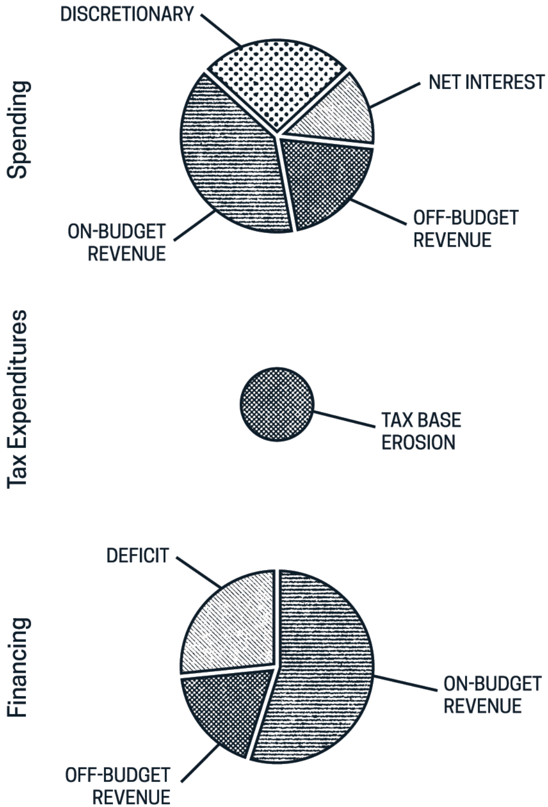
The master key to unlock effective congressional budgeting

- Establish an effective regular order
- Empower all committees & members
- Enable regular, incremental progress
- Expand bipartisan coalition-building
- Provide political cover from bipartisan votes & full budget context
- Get more from existing political will

Comprehensive Congressional Budget Act

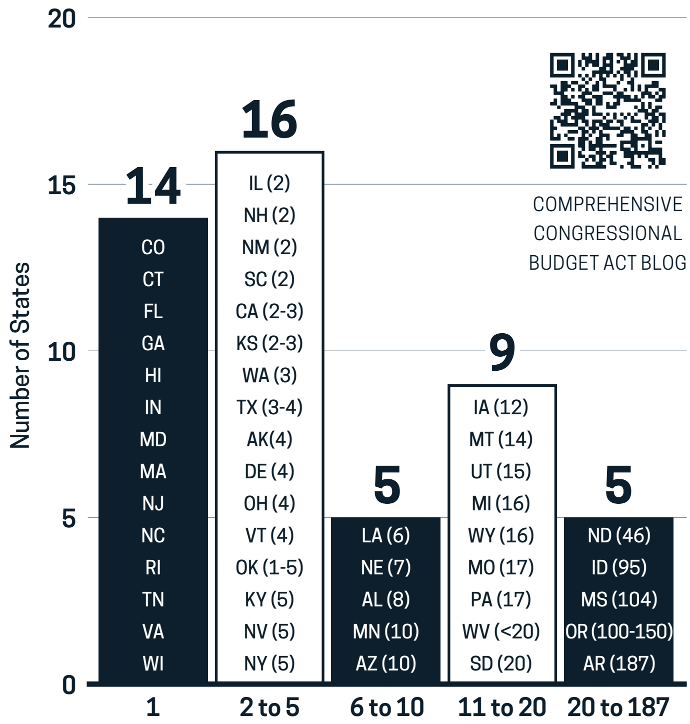
- Bipartisan bill from Rep. Blake Moore
- Each year, manage all spending & revenue together
- Budget resolution invites committees to manage portfolios coherently
- Committee contributions bundled into annual budget act
- Includes backstops to reduce hangups
  - Budget resolution impasse → committees get allocations at baseline levels
  - Committee doesn't contribute → Budget Committee inserts baseline line-items

THE FEDERAL BUDGET IN 2025



COMPREHENSIVE BUDGET

Most states do few bills per budget cycle



Source: NASBO

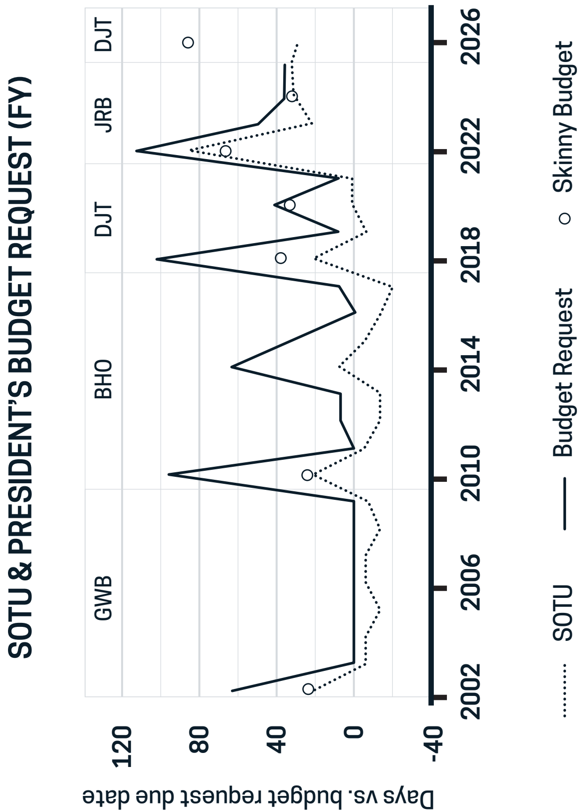
START ON TIME: BUDGET BEFORE SOTU

Get Congress useful info sooner

- Congress' appropriations & security authorizations require president's budget request & national security strategy
- Reports are due in early February but are late

Send Us Budget Materials & International Tactics In Time (SUBMIT IT) Act

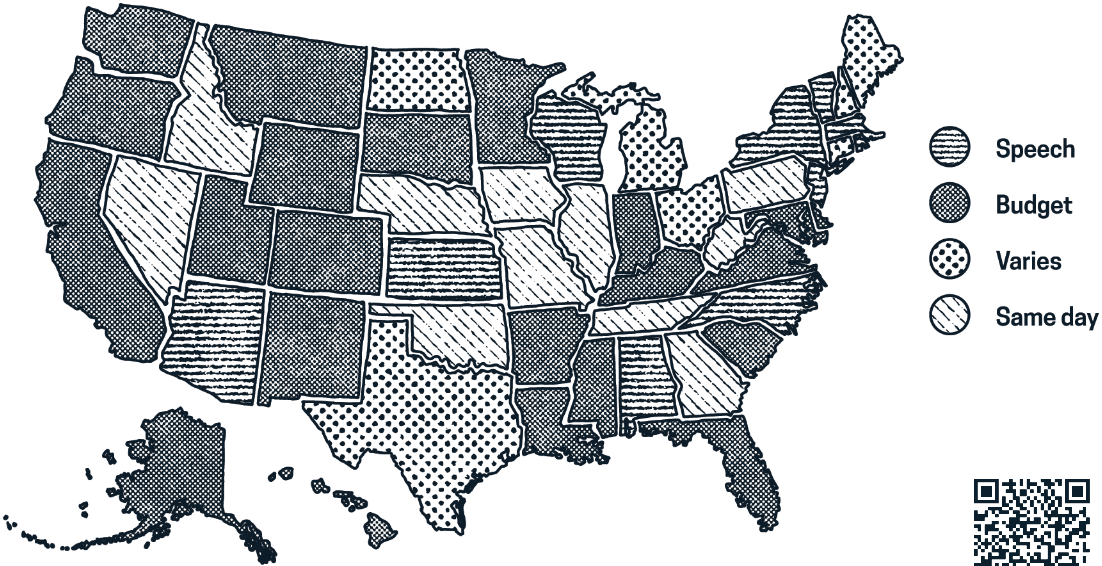
- Invite POTUS to give State of the Union after Congress gets the reports
- POTUS will push OMB/NSC to prepare reports faster to unlock SOTU
- SOTU has been before president's budget request; reverse the order for better results



Many state legislatures:

1. Get the governor's budget request, then
2. Receive the governor's State of the State

WHAT'S FIRST? GOVERNOR'S BUDGET OR STATE OF STATE?



SUBMIT IT
ACT BLOG

FINISH ON TIME: PREVENT SHUTDOWNS

Shutdown risk drives bad results:

- Harmful process leads to controlled omnibus
- Uncertainty from risk of disruption
- Budget delay until holiday leverage exists
- Bloat used to reduce outside complaints

Fix with automatic continuing appropriations:

- No risk of service disruptions
- Focus on goal, not stopgap
- More timely completion
- Less waste to buy off special interests
- More bottom-up solutions in Congress
- Votes earned, not bought with bloat

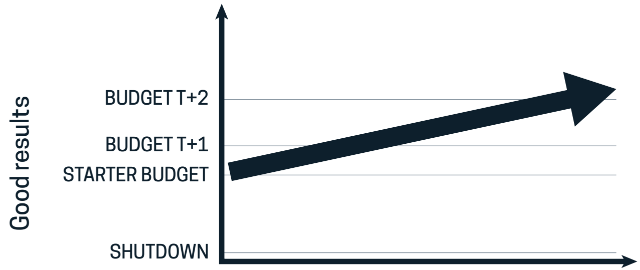
Prevent Government Shutdowns Act

- Sen. Lankford, Rep. Arrington
- Flat-funding automatic continuing appropriations
- Members stay in D.C. focused on new appropriations until done

Automatic continuing appropriations work

- De facto for federal govt until Carter admin. created possibility of shutdowns
- Rhode Island & Wisconsin since at least 1950s
- North Carolina since 2016
- Kansas over veto in 2025

AUTOMATIC CONTINUING APPROPRIATIONS



PREVENT GOVERNMENT SHUTDOWNS ACT ONE-PAGER

REASONABLE STATUTORY BUDGET TARGETS

Well-designed targets build on and promote consensus. Appealing designs provide:

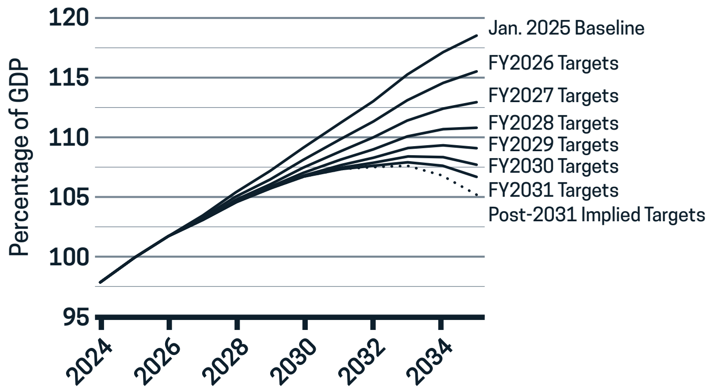
- Stable policies: Spending and revenue changes are deliberate choices for the long run, not reactive to revenue fluctuations
- Predictable levels: Long lead times so members can build coalitions on options
- Comprehensive: Cover all spending and revenue, perhaps excluding interest costs
- Long-term responsibility: Guides the trend of the debt burden toward sustainability, adjusted for economic fluctuations
- Flexibility: For emergencies and other unexpected opportunities and needs, with subsequent offsets
- Politically sustainable: Fair and reasonable to broad coalition over time

Statutory budget targets support constitutional requirements in most U.S. states and abroad.

MEDIUM-TERM DEBT-TO-GDP TARGETS

- Each year, Congress reduces the projected debt-to-GDP ratio after five years
- Mix & match spending restraint, revenue, and economic growth
- Compounded savings bend debt curve

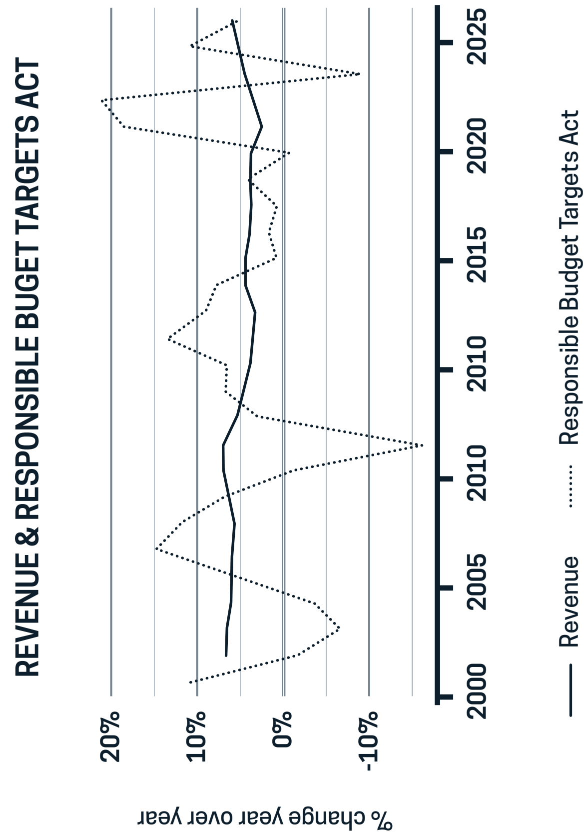
EACH YEAR, REDUCE DEBT-TO-GDP BY 1 PERCENTAGE POINT FROM BASELINE IN FIVE YEARS



RESPONSIBLE BUDGET TARGETS ACT

- Rep. Emmer & Sen. Braun
- Neutral, stable, predictable, comprehensive, flexible, viable rule
- Glide path to primary structural balance: medium-term balance, excluding interest
- Primary budget authority grows with five-year rolling average of GDP growth, deficit brake reduces spending growth after outlays exceed revenue, and vice versa
- No immediate offsets for emergencies; offset equally over six subsequent years

RESPONSIBLE
BUDGET TARGETS
ACT BLOG



EFFECTIVE AUTOMATIC ENFORCEMENT

CONGRESS NEEDS A CREDIBLE BACKSTOP

- Sequestration for discretionary spending caps and under the Statutory Pay-As-You-Go Act has failed
- More promising automatic enforcement
  - Spread pain around to minimize coalitions organizing to turn it off
  - Extend savings over multiyear period instead of in a single year
  - Incrementally adjust existing or new parameters of law for savings

Framework for incremental enforcement

- Set ratio between spending and revenue savings
- OMB works down lists of savings until targets are achieved, repeating if needed, and picking up the next time where the last triggered savings left off

AUTOMATIC
INCREMENTAL
ENFORCEMENT BLOG

REDIRECT THE DEBT LIMIT

CONGRESS NEEDS A CREDIBLE BACKSTOP

Temper expectations for the debt limit

- GAO: Debt limit not an effective fiscal rule
- Congress holds power to borrow
- Debt limit increases can carry budget fixes

Strike a smart debt limit deal

- Prevent Government Shutdowns Act
- Reasonable budget targets like the Responsible Budget Targets Act with automatic incremental enforcement
- Automatic debt limit increase when budget hits targets
- Votes on competing BBA proposals

OR

(CONTINUED
ON REVERSE)

Raise debt limit in a comprehensive budget

- Helps Congress pass new budget
- Extraordinary measures buffer the X-date

DEBT LIMIT
DEAL FOR
EVERYONE BLOG

A WELL-CRAFTED BALANCED BUDGET AMENDMENT

CONSTITUTIONAL CHANGE IS NEEDED

- Congress cannot waive with new statute
- Focal norm to support responsible budgeting
- Catalyze statutory budget upgrades
- 80% of voters want balance within 10 years

TWO NEUTRAL, COMPREHENSIVE, PRACTICAL BBAS; ALLOW PRIMARY STRUCTURAL BALANCE:

NON-INTEREST SPENDING AND REVENUE BALANCE OVER MEDIUM TERM

- Principles-based BBA (Moran/Braun): Broad goals that leave details to statute, 2/3 for emergencies, 10-year deficit phase-out
- Business Cycle BBA (Arrington/Mace): Mechanics for medium-term balance of spending based on recent revenue, 2/3 or 3/4 for emergencies, 10-year deficit phase-out

A VIABLE BBA CANNOT SOLVE EVERYTHING

- 2/3 in House/Senate & 3/4 of state legislatures
- Needs many votes from both sides of aisle
- Implementing legislation provides details

COMMON PROBLEMS IN BBA PROPOSALS

- Annual balance: Revenue is volatile
- Full balance: Too much policy change
- Short transition: Savings start small & grow
- Multiple emergency thresholds: Single safety value at reasonably high level is ideal
- President's budget: Keep in statute to avoid risks to the balance of powers
- Statutory concepts: Keep out of Constitution
- Carve-outs: Covering all spending & revenue still lets Congress treat programs differently
- Hurdles for revenue, debt limit, spending as %GDP: non-neutral, erodes support
- Role of judiciary: Best to address in statute

STATUTORY COMPLEMENTS

- Comprehensive budget: All spending & revenue in one budget bill each year
- Debt limit: Auto increase if budget on track
- Incremental enforcement: Dialable tweaks to reinforce targets, not a traditional "goofy meat axe" sequester

BBA DESIGNS
WITHOUT
DEFECTS PAPER

AUTHORIZATIONS

COMMITTEES AS MICROCOSMS

Committees are Congress' policy workhorses

- Chamber rules allocate policymaking power and responsibility to committees
- Steering committee members match caucus members to committees
- Committees that reflect the caucus are more likely to resolve sticking points where time is more abundant and relationships are stronger than on the floor
- Multiple dimensions matter: seniority, geography, temperament, expertise, ideology, professional backgrounds, and more
- All members have trusted colleagues shaping legislation, so information flows both ways

Congress' caucuses/conferences should

- Consider the degree to which committee memberships are representative
- Use upcoming opportunities to improve committee composition, such as the steering process at the start of a Congress

RESTORING
REPRESENTATION
BLOG

CHAIR'S CHOICE ON FLOOR

Chairs need routine ways to move legislation

- Committees specialize in policy development
- Committee members and staff develop expertise within their jurisdiction
- Chairs are responsible for the progress of a committee's legislative priorities
- Making committee chairs responsible for the content and success of their bills takes pressure off leaders
- Sharing the burden of floor time helps chairs and leaders focus on comparative strengths

Existing rules can help share the floor

- House Rule XIV(4) would let each committee chair take a turn bringing a priority to the floor, though the motion to consider the previous question precludes this opportunity

RESTORING
REPRESENTATION
BLOG

OVERSIGHT: INFORM LEGISLATION, POLICE REGULATIONS/GUIDANCE

Congressional committees' oversight function is undoubtedly a critical component of its legislative function but expends significant resources. To maximize resources and prioritize policy development, oversight must be used to inform legislation, not just attack opposition parties.

- The Supreme Court has firmly established that the power to investigate is vital to Congress' legislative function
- Identifying executive problems or even corruption is critical, but must be followed by legislative action to address the issues identified through oversight investigations
- Congressional committee oversight actions should only be taken if the committee has the authority to legislate on that topic
- Particularly in the House, where committees share jurisdiction, coordination should be prioritized to avoid duplicative investigations
- Adhere strictly to the Supreme Court's mandate that any "right to exact testimony and to call for the production of documents must be found in [the Committee's jurisdiction]"

REGULATORY RESET: FINISH THE JOB SCOTUS STARTED WITH *LOPER BRIGHT*

The *Loper Bright* decision, by its nature, somewhat reset the regulatory landscape on its own by removing judicial deference to federal agencies, who were essentially able to interpret their own statutes without any pushback for almost half a century. As a result, the Supreme Court re-shifted lawmaking power away from the regulatory agencies and back to Congress as Article I of the Constitution intended.

However, there is much left to do to ensure that Congress fully regains its Article I powers. Luckily, there are already many bills that have been introduced that will go a long way toward properly resetting the regulatory landscape.

- Create mechanisms for greater congressional review of regulations (e.g., REINS Act)
- Create better mechanisms for retrospective review of regulations
- Create mechanisms for efficient sunsetting where necessary
- Ensure mechanisms for retrospective review and sunsetting properly incentivize agencies to adhere to their requirements
- Reset the Code of Federal Regulations by requiring agencies to inform Congress of which rules must be kept — sunset the rest

Cross-Cutting SOLUTIONS

READABLE LEGISLATION

Bills to amend statute are difficult to read

- Understanding a bill requires finding and comparing underlying statute with bill text and proposed amendments
- Time and complexity of bill review reduces congressional capacity
- Readable legislation is standard in the states
- Legislation that amends statute would show changes within the entire section
- The House Comparative Print Suite approximates readable legislation
- The House has "Readable Ramseyers" in reports accompanying reported bills

Readable Legislation Act

- Broad, bipartisan support since introduced
- Amendatory legislation would show changes in full context of amended sections of statute
- Enacting positive law codifications of uncodified titles of the U.S. Code would support readable legislation

READABLE LEGISLATION ACT

BOTTOM-UP FILTERS FOR FLOOR AMENDMENTS

Open rules do not align costs and benefits

- Member/staff time is valuable
- Proposed amendments differ in worth
- The top-down, black-box Rules/Speaker model invites grumbling
- A bottom-up, rule-of-law approach could improve congressional culture

Options for bottom-up amendment filtering

- Require a minimum number of cosponsors, maybe fewer if bipartisan
- Per-member sponsor/cosponsor caps
- Members allocate "points" to sponsor or cosponsor amendments
- Allow a fixed number of the most popular amendments based on cosponsors

BOTTOM-UP FILTER BLOG

CLARIFY POWERS IN STATUTE

Congress should fill in gaps in Constitution

- The necessary & proper clause lets Congress enact legislation to implement federal powers
- Congress has not provided details in statute for many terms in the Constitution
- Adapting timeless principles to current needs builds consensus and produces an anchor for contemporary meaning and accountability

Chaos can result from undefined power

- Presidential disregard for treaties and trade arrangements have unsettled foreign relations and global supply chains
- Courts today are much more willing to uphold statutes than to legislate from the bench

CODIFYING TREATY POWERS

RECLAIM EMERGENCY & TRADE POWERS

Keep responsibility where it belongs

- Congress' legislative powers include appropriations, taxation, and borrowing
- Emergency claims raise major questions about separation of powers
- Delegations must be clearly defined, timely, and temporary
- Congress must oversee and affirmatively approve execution of the laws

Reining in over-delegation

- The Lee-Blumenthal-Roy-Cohen ARTICLE ONE Act would sunset certain emergency actions unless Congress approves
- Legislation like the Paul-Bacon Trade Review Act and the Cantwell-Grassley-Bacon Trade Review Act would strengthen Congress' role in trade policy

ARTICLE ONE ACT PIECE

CONTACT *us*

Kurt Couchman

SENIOR FELLOW IN FISCAL POLICY,
AMERICANS FOR PROSPERITY

kcouchman@afphq.org

Graham Owens

REGULATORY POLICY FELLOW,
AMERICANS FOR PROSPERITY

gowens@afphq.org

AMERICANS *for* PROSPERITY

AMERICANSFORPROSPERITY.org