

House Committee on the Budget

Introduction to the Federal Budget Process

Briefing Book

September 2011

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History of the Congressional Budget Process (Excerpt from Senate Budget Committee history)

Milestones in the Development of the Federal Budget Process

The Budget Control Act of 2011 (CRS Report)

Budget Process Reform Proposals

Note: The following text has been largely excerpted from CRS Report 98-721, *Introduction to the Federal Budget Process*, which was originally written by Robert Keith, formerly a Specialist in American National Government at CRS, and Allen Schick, formerly a Consultant at CRS. Additional text drawn from other CRS reports, as noted, have been added to supplement the text from this report.

I. The Evolution of Federal Budgeting

The "power of the purse" is a legislative power. The Constitution lists the power to lay and collect taxes and the power to borrow as powers of Congress; further, it provides that funds may be drawn from the Treasury only pursuant to appropriations made by law. The Constitution does not state how these legislative powers are to be exercised, nor does it expressly provide for the President to have a role in the management of the nation's finances.

During the nation's early years, the House and Senate devised procedures for the enactment of spending and revenue legislation. As these procedures evolved during the 19th century and the first decades of the 20th century, they led to highly fragmented legislative actions. In the course of each session, Congress passed many separate appropriations bills and other measures affecting the financial condition of the federal government. Neither the Constitution nor the procedures adopted by the House and Senate provided for a budget system—that is, for a coordinated set of actions covering all federal spending and revenues. As long as the federal government was small and its spending and revenues were stable, such a budget system was not considered necessary.

Early in the 20th century, the incessant rise in federal spending and the recurrence of deficits (spending exceeded revenues in half of the 20 years preceding FY1920) led Congress to seek a more coordinated means of making financial decisions. The key legislation was the Budget and Accounting Act of 1921, which established the executive budget process.

The 1921 act did not directly alter the procedures by which Congress makes revenue and spending decisions. The main impact was in the executive branch. The President was required to submit his budget recommendations to Congress each year, and the Bureau of the Budget—renamed the Office of Management and Budget (OMB) in 1970—was created to assist him in carrying out his budgetary responsibilities. Congress, it was expected, would be able to coordinate its revenue and spending decisions if it received comprehensive budget recommendations from the President. In line with this expectation, the House and Senate changed their rules to consolidate the jurisdiction of the Appropriations Committees over spending. The 1921 act also established the General Accounting Office (GAO), headed by the Comptroller General, and made it the principal auditing arm of the federal government. [The GAO was renamed the Government Accountability Office in 2004 (P.L. 108-271).] The 1921 act, as amended, remains the statutory basis for the presidential budget system.

After World War II, the belief that the presidential budget sufficed to maintain fiscal control gave way to the view that Congress needed its own budget process. Some members of Congress feared that dependence on the executive budget had bolstered the President's fiscal powers at the expense of Congress's; others felt that as long as its financial decisions were fragmented, Congress could not effectively control expenditures.

The Congressional Budget and Impoundment Control Act of 1974 established a congressional budget process centered on a concurrent resolution on the budget, scheduled for adoption prior to legislative consideration of revenue or spending bills. The congressional budget process initiated in the 1970s did not replace the preexisting revenue and spending processes. Instead, it provided an overall legislative framework within which the many separate measures affecting the budget would be considered. The central purpose of the budget process established by the 1974 act is to coordinate the various revenue and spending decisions which are made in separate revenue, appropriations, and other budgetary measures. To assist Congress in making budget decisions, the 1974 act established the Congressional Budget Office (CBO) and directed it to provide data on and analyses of the federal budget.

During the years that the congressional budget process has been in operation, its procedures have been adapted by Congress to changing circumstances. Following a decade of experience with the 1974 Congressional Budget Act, Congress made further changes in the budget process by enacting the Balanced Budget and Emergency Deficit Control Act of 1985 (also known as the Gramm-Rudman-Hollings Act), the Budget Enforcement Act of 1990, the Line Item Veto Act in 1996, the Statutory Pay-As-You-Go Act of 2010, and the Budget Control Act of 2011, among other laws.

The 1985 act prescribed declining deficit targets intended to achieve balance in FY1991; the targets were enforced by sequestration, a process involving automatic, across-the-board cuts in nonexempt spending programs if the targets were expected to be exceeded. The 1990 act replaced the deficit targets with caps on discretionary spending and a pay-as-you-go (PAYGO) requirement for revenue and direct spending legislation; sequestration was retained as the means of enforcing the two new mechanisms. The 1996 act authorized the President to cancel discretionary spending in appropriation acts, as well as new direct spending and limited tax benefits in other legislation, subject to expedited legislative procedures by which Congress could overturn the cancellations. (The Supreme Court struck down the Line Item Veto Act in June 1998 as unconstitutional.) The Statutory Pay-As-You-Go Act of 2010 restored a modified version of the PAYGO requirement for direct spending and revenue legislation. Most recently, the Budget Control Act of 2011 (BCA) established statutory limits on discretionary spending for each fiscal year covering FY2012-FY2021, and restored a sequestration process to enforce those limits. The BCA also established a Joint Select Committee on Deficit Reduction with the goal of reducing the deficit by \$1.5 trillion over the period covering FY2012-FY2021, and an automatic spending reduction process, if a proposal by the Joint Committee that reduced the deficit by at least \$1.2 trillion is not enacted by the beginning of 2012.

II. Basic Concepts of Federal Budgeting

The federal budget is a compilation of numbers about the revenues, spending, and borrowing and debt of the government. Revenues come largely from taxes, but stem from other sources as well (such as duties, fines, licenses, and gifts). Spending involves such concepts as budget authority, obligations, outlays, and offsetting collections. The numbers are computed according to rules and conventions that have accumulated over the years; they do not always conform to the way revenues and spending are accounted for in other processes.

Budget Authority and Outlays

When Congress appropriates money, it provides budget authority, that is, authority to enter into obligations. Budget authority also may be provided in legislation that does not go through the appropriations process (direct spending legislation). The key congressional spending decisions relate to the obligations that agencies are authorized to incur during a fiscal year, not to the outlays made during the year. (Obligations occur when agencies enter into contracts, submit purchase orders, employ personnel, and so forth; outlays occur when obligations are liquidated, primarily through the issuance of checks, electronic fund transfers, or the disbursement of cash.)

The provision of budget authority is the key point at which Congress exercises control over federal spending, although the outlay level often receives greater public attention because of its bearing on the deficit. Congress does not directly control outlays; each year's outlays derive in part from new budget authority and in part from "carryover" budget authority provided in prior years.

The relation of budget authority to outlays varies from program to program and depends on spendout rates, the rates at which funds provided by Congress are obligated and payments disbursed. In a program with a high spendout rate, most new budget authority is expended during the fiscal year; if the spendout rate is low, however, most of the outlays occur in later years. Regardless of the spendout rate, the outlays in the budget are merely estimates of the amounts that will be disbursed during the year. If payments turn out to be higher than the budget estimate, outlays will be above the budgeted level. The President and Congress control outlays indirectly by deciding on the amount of budget authority to be provided or by limiting the amount of obligations to be incurred.

Certain receipts of the federal government are accounted for as "offsets" against outlays rather than as revenues.¹ Various fees collected by government agencies are deducted

¹ Such receipts are referred to as offsetting collections and offsetting receipts. According to OMB, "these offsetting collections and offsetting receipts come from business-like transactions with the public and, unlike governmental receipts, are not collected based on the Government's exercise of its sovereign power. For this reason it is appropriate to classify these offsetting collections and offsetting receipts as offsets to outlays rather than on the receipts side of the budget." For further information, see OMB, *Budget of the U.S. Government, FY2012, Analytical Perspectives* (Washington: 2011), chapter 4, "Offsetting Collections and Offsetting Receipts," pp. 223-238.

from outlays; similarly, income from the sale of certain assets are treated as offsetting receipts. Most such receipts are offsets against the outlays of the agencies that collect the money, but in the case of offshore oil leases and certain other activities, the revenues are deducted from the total outlays of the government.

Scope of the Budget

The budget consists of two main groups of funds: federal funds and trust funds. Federal funds—which comprise mainly the general fund—largely derive from the general exercise of the taxing power and general borrowing and for the most part are not earmarked by law to any specific program or agency. One component of federal funds, called special funds, are earmarked as to source and purpose. The use of federal funds is determined largely by appropriations acts.

Trust funds are established, under the terms of statutes that designate them as trust funds, to account for funds earmarked by specific sources and purposes. The Social Security funds are the largest of the trust funds; revenues are collected under a Social Security payroll tax and are used to pay for Social Security benefits and related purposes. The unified budget includes both the federal funds and the trust funds. The balances in the trust funds are borrowed by the federal government; they are counted, therefore, in the federal debt. Because these balances offset a budget deficit but are included in the federal debt, the annual increase in the debt invariably exceeds the amount of the budget deficit. For the same reason, it is possible for the federal debt to rise when the federal government has a budget surplus.

Capital and operating expenses are not segregated in the budget. Hence, monies paid for the operations of government agencies as well as for the acquisition of long-life assets (such as buildings, roads, and weapons systems) are reported as budget outlays. Proposals have been made from time to time to divide the budget into capital and operating accounts. While these proposals have not been adopted, the budget provides information showing the investment and operating outlays of the government.

Capital Budgeting

Unlike many states, the federal government does not employ separate capital and operating budgets; instead, all revenue and spending is merged together into a "unified" budget. Information on capital budgeting, however, has been provided for many years as a separate chapter in one of the volumes of the President's budget. Interest in adopting a capital budget for the federal government has been examined from time to time. In 1999, a commission established by President Bill Clinton pursuant to Executive Order 13037 (March 3, 1997), the President's Commission to Study Capital Budgeting, recommended several changes in budgetary practice but did not recommend the adoption of a formal capital budget.

Advocates of capital budgeting generally regard it as a means of boosting resources for infrastructure needs (e.g., surface transportation and aviation systems struggling to meet capacity and deteriorating water infrastructure), overcoming an alleged bias against capital spending in the current budget process, and rationalizing decision-making in this area. Critics of capital budgeting assert that shifting a significant portion of the budget to an accrual basis (in which costs are apportioned over the lifetime of an asset rather than accounted for up front) would unduly complicate the budget process and undermine the task of setting priorities over the full range of governmental activities.

From CRS Report R40113, *Federal Budget Process Reform in the 111th Congress: A Brief Overview*, by Megan Suzanne Lynch.

The budget totals do not include all the financial transactions of the federal government. The main exclusions fall into two categories—off-budget entities and some government-sponsored enterprises. In addition, the budget includes direct and guaranteed loans on the basis of the accounting rules established by the Federal Credit Reform Act of 1990, which are discussed below.

Off-budget entities are excluded by law from the budget totals. The receipts and disbursements of the Social Security trust funds (the Old-Age and Survivors Insurance Fund and the Disability Insurance Fund), as well as the Postal Service Fund, are excluded from the budget totals. These transactions are shown separately in the budget. Thus, the budget now reports two deficit or surplus amounts—one excluding the Social Security trust funds and the Postal Service Fund, and the other (on a unified basis) including these entities. The latter is the main focus of discussion in both the President's budget and the congressional budget process.

The transactions of government-owned corporations (excluding the Postal Service), as well as revolving funds, are included in the budget on a net basis. That is, the amount shown in the budget is the difference between receipts and outlays, not the total activity of the enterprise or revolving fund. If, for example, a revolving fund has annual income of \$150 million and disbursements of \$200 million, the budget would report \$50 million as net outlays.

Government-sponsored enterprises (GSEs) historically have been excluded from the budget because they were deemed to be private rather than public entities. The federal

government did not own any equity in these enterprises, most of which received their financing from private sources. Although they were established by the federal government, their budgets were not reviewed by the President or Congress in the same manner as other programs. Most of these enterprises engaged in credit activities. They borrowed funds in capital markets and lent money to homeowners, farmers, and others. In total, these enterprises had assets and liabilities measured in trillions of dollars. Financial statements of the government-sponsored enterprises were published in the President's budget.

Although some GSEs continue to operate on this basis, the economic downturn and credit instability that occurred in 2008 fundamentally changed the status of two GSEs that play a significant role in the home mortgage market, Fannie Mae and Freddie Mac. In September of 2008, the Federal Housing Finance Agency (FHFA) placed the two entities in conservatorship, thereby subjecting them to control by the Federal Government until the conservatorship eventually is brought to an end.²

The Evolution of the Unified Budget

Prior to 1968, the federal budget was represented by three competing measures of federal financial activities: the administrative budget; the national income accounts budget; and the consolidated cash budget. The federal government did not have a single presentation of its annual budget, and the most frequently used one, the administrative budget, did not encompass the full range of federal financial activities. Only the revenues and expenditures from federal fund transactions were included; all trust-fund transactions were excluded from the administrative budget.

As trust-fund activities increased, the existing budget presentations were seen as inadequate in representing the full impact of federal government financial activities on the national economy. The 1967 Report of the President's Commission on Budget Concepts stated that "the budget should, as a general rule, be comprehensive of the full range of federal activities." The commission recommended a unified budget, consolidating the revenues and expenditures from both federal and trust funds. In 1968, President Lyndon B. Johnson adopted the unified budget for his FY1969 budget submission to Congress, and every President since then has used the unified budget.

Initially, the unified budget excluded only the Board of Governors of the Federal Reserve System, the Exchange Stabilization Fund, and government-sponsored enterprises, which are privately owned. By the early 1980s, however, several additional government entities had received off-budget status, usually by statute. In 1984, for example, seven federal entities were off budget: Federal Financing Bank; Rural Electrification Administration and Rural Telephone

² CBO considers Fannie Mae and Freddie Mac to be "on budget" because they were placed under federal conservatorship on September 6, 2008 (Housing and economic Recovery Act of 2008, P.L. 110-289). CBO adds the projected subsidy cost of federal assistance to Fannie and Freddie to mandatory outlays in its baseline under the guidelines of the Federal Credit Reform Act of 1990 with an adjustment for market risk. By contrast, OMB adds projected federal transfers to Fannie and Freddie through Treasury's preferred share purchases to mandatory outlays in its budget projections. Actual totals for past years use the OMB method. For more information, see CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*, by Maggie McCarty et al.

Bank; Strategic Petroleum Reserve Account; United States Synthetic Fuels Corporation; United States Railway Association; Board of Governors of the Federal Reserve System; and U.S. Postal Service. In addition, the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (commonly referred to as the Social Security trust funds) and the Federal Hospital Insurance Trust Fund (i.e., Medicare, Part A) were scheduled to go off budget beginning with FY1993. This increase in off-budget entities prompted a review of the budgetary treatment of these federal activities by the Task Force on the Budget Process of the House Committee on Rules. The task force recommended that all off-budget entities, and those entities scheduled to go off budget, be placed back on budget. The Board of Governors of the Federal Reserve System and the U.S. Postal Service were to be partially excluded, because of their independent status.

Although the proposed legislation resulting from the work of the task force was not enacted into law, several of its recommendations were incorporated into the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177; 99 Stat. 1038-1101). In particular, the 1985 Balanced Budget Act required that the existing off-budget entities be included in the President's budget and the congressional budget. The Board of Governors of the Federal Reserve System and government-sponsored enterprises remained off budget. In addition, the off-budget status of the two Social Security trust funds was accelerated, from beginning with the FY1993 budget to beginning with the FY1986 budget.

From CRS Report RS20350, *Off-Budget Status of Federal Entities: Background and Current Proposals*.

The Budget Cycle

Federal budgeting is a cyclical activity that begins with the formulation of the President's annual budget and concludes with the audit and review of expenditures. The process spreads over a multi-year period. The main stages are formulation of the President's budget, congressional budget actions, implementation of the budget, and audit and review. While the basic steps continue from year to year, particular procedures often vary in accord with the style of the President, the economic and political considerations under which the budget is prepared and implemented, and other factors.

The activities related to a single fiscal year usually stretch over a period of two-and-a-half calendar years (or longer). As the budget is being considered, federal agencies must deal with three different fiscal years at the same time: implementing the budget for the current fiscal year; seeking funds from Congress for the next fiscal year; and planning for the fiscal year after that.

III. The Presidential Budget Process

The President's budget, officially referred to as the Budget of the United States Government, is required by law to be submitted to Congress early in the legislative session, no later than the first Monday in February. The budget consists of estimates of spending, revenues, borrowing, and debt; policy and legislative recommendations; detailed estimates of the financial operations of federal agencies and programs; data on the actual and projected performance of the economy; and other information supporting the President's recommendations.

The President's budget is only a request to Congress; Congress is not required to adopt his recommendations. Nevertheless, the power to formulate and submit the budget is a vital tool in the President's direction of the executive branch and of national policy. The President's proposals often influence congressional revenue and spending decisions, though the extent of the influence varies from year to year and depends more on political and fiscal conditions than on the legal status of the budget.

The Constitution does not provide for a budget, nor does it require the President to make recommendations concerning the revenues and spending of the federal government. Until 1921, the federal government operated without a comprehensive presidential budget process.³ The Budget and Accounting Act of 1921, as amended, provides for a national budget system. Its basic requirement is that the President should prepare and submit a budget to Congress each year. The 1921 act established the Bureau of the Budget, now named the Office of Management and Budget (OMB), to assist the President in preparing and implementing the executive budget. Although it has been amended many times, this statute provides the legal basis for the presidential budget, prescribes much of its content, and defines the roles of the President and the agencies in the process.

Formulation and Content of the President's Budget

Preparation of the President's budget typically begins in the spring (or earlier) each year, at least nine months before the budget is submitted to Congress, about 17 months before the start of the fiscal year to which it pertains, and about 29 months before the close of that fiscal year. The early stages of budget preparation occur in federal agencies. When they begin work on the budget for a fiscal year, agencies already are implementing the budget for the fiscal year in progress and awaiting final appropriations actions and other legislative decisions for the fiscal year after that. The long lead times and the fact that appropriations have not yet been made for the next year mean that the budget is prepared with a great deal of uncertainty about economic conditions, presidential policies, and congressional actions.

³ Prior to 1921, "[a]gency requests for funds were compiled by the Secretary of the Treasury into a 'book of estimates' submitted annually to Congress, but there was little uniformity in the manner in which each agency prepared its requests. The President did not play a formal role in reviewing and coordinating the funding requests, and the funding requests were not considered in relation to requests for revenue." U.S. Congress, Senate Committee on the Budget, *Committee on the Budget, United States Senate, 1974-2006*, 109th Cong., 2nd sess., 2006, 109-24 (Washington: GPO, 2006), p. 22.

The Executive Budget Process Timetable

Date	Activities
Calendar Year Prior to the Year in Which Fiscal Year Begins	
Spring	OMB issues planning guidance to executive agencies for the budget beginning October 1 of the following year.
Spring and Summer	Agencies begin development of budget requests.
July	OMB issues annual update to Circular A-11, providing detailed instructions for submitting budget data and material for agency budget requests.
September	Agencies submit initial budget requests to OMB.
October-November	OMB staff review agency budget requests in relation to President's priorities, program performance, and budget constraints.
November-December	President, based on recommendations by the OMB director, makes decisions on agency requests. OMB informs agencies of decisions, commonly referred to as OMB "passback."
December	Agencies may appeal these decisions to the OMB director and in some cases directly to the President.
Calendar Year in Which Fiscal Year Begins	
By first Monday in February	President submits budget to Congress.
February-September	Congressional phase. Agencies interact with Congress, justifying and explaining President's budget.
By July 15	President submits mid-session review to Congress.
August 21 (or within 10 days after approval of a spending bill)	Agencies submit apportionment requests to OMB for each budget account.
September 10 (or within 30 days after approval of a spending bill)	OMB apportions available funds to agencies by time period, program, project, or activity.
October 1	Fiscal year begins.
Calendar Years in Which Fiscal Year Begins and Ends	
October-September	Agencies make allotments, obligate funds, conduct activities, and request supplemental appropriations, if necessary. President may propose supplemental appropriations and impoundments (i.e., deferrals or rescissions) to Congress.
September 30	Fiscal year ends.

Source: Office of Management and Budget, *Circular No. A-11* (Washington: August 2011), Section 10.5.

As agencies formulate their budgets, they maintain continuing contact with the OMB examiners assigned to them. These contacts provide agencies with guidance in preparing their budgets and also enable them to alert OMB to any needs or problems that may loom ahead. Agency requests are submitted to OMB in late summer or early fall; these are reviewed by OMB staff in consultation with the President and his aides. The 1921 Budget and Accounting Act bars agencies from submitting their budget requests directly to Congress. Moreover, OMB regulations provide for confidentiality in all budget requests and recommendations prior to the transmittal of the President's budget to Congress.

However, it is quite common for internal budget documents to become public while the budget is still being formulated.

The format and content of the budget are partly determined by law, but the 1921 act authorizes the President to set forth the budget "in such form and detail" as he may determine. Over the years, there has been an increase in the types of information and explanatory material presented in the budget documents.

In most years, the budget is submitted as a multi-volume set consisting of a main document setting forth the President's message to Congress and an analysis and justification of his major proposals (the Budget) and supplementary documents providing account and program level details, historical information, and special budgetary analyses (the Budget Appendix, Historical Tables, and Analytical Perspectives), among other things.

Much of the budget is an estimate of requirements under existing law rather than a request for congressional action (more than half of the budget authority in the budget becomes available without congressional action). The President is required to submit a budget update (reflecting changed economic conditions, congressional actions, and other factors), referred to as the Mid-Session Review, by July 15 each year. The President may revise his recommendations any time during the year.

Executive Interaction With Congress

The President and his budget office have an important role once the budget is submitted to Congress. OMB officials and other presidential advisors appear before congressional committees to discuss overall policy and economic issues, but they generally leave formal discussions of specific programs to the affected agencies. Agencies thus bear the principal responsibility for defending the President's program recommendations at congressional hearings.

Agencies are supposed to justify the President's recommendations, not their own. OMB maintains an elaborate legislative clearance process to ensure that agency budget justifications, testimony, and other submissions are consistent with presidential policy. As the session unfolds, the President may formally signal his position on pending legislation through the issuance of a Statement of Administration Policy (SAP). These statements, which are maintained by OMB on its website, sometimes are used to convey a veto threat against legislation the President feels requires modifications to meet his approval.

Increasingly in recent years, the President and his chief budgetary aides have engaged in extensive negotiations with Congress over major budgetary legislation. These negotiations sometimes have occurred as formal budget "summits" and at other times as less visible, behind-the-scenes activities.

Dates of Presidential Budget Submission, FY1976-FY2012⁴

Fiscal Year	Date of Submission	Deadline ⁵	Budget Submitted by Deadline	Notes
FY1987	02-05-1986	02-05-1986	yes	
FY1988	01-05-1987	01-05-1987	yes	In order to ensure that the President's Budget was transmitted by the required date, the budget documents were submitted in two stages. An abbreviated version of the Budget was submitted January 5, 1987, along with the budget message. A more comprehensive budget for FY88 –Supplement version followed on January 28, 1987, along with other budget documents for FY1988.
FY1989	02-18-1988	01-04-1988	no	On the day of the deadline for submission of the President's FY1989 budget, OMB Director James C. Miller III transmitted a letter to Congress explaining that the lateness of final action on appropriations for FY1988 (P.L. 100-202), as well as the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) and the Bipartisan Budget Summit Agreement made it impossible to transmit the President's FY1989 budget by the statutory deadline, and that it would be delayed until mid-February (Executive Communication EC-2455).
FY1990	01-09-1989	01-09-1989	yes	
FY1991	01-29-1990	01-22-1990	no	P.L. 101-228 (enacted 12-12-1989) extended deadline to 01-22-1990; original deadline was 01-08-1990

⁴ This table was originally included in CRS report 88-661, *The President's Budget Submission: Format, Deadlines, and Transition Years*, by Virginia A. McMurtry and James V. Satruno. It has been updated to reflect actions taken after October 7, 1988.

⁵ Currently, Section 1105 of Title 31, United States Code, requires that the President submit a budget for the following fiscal year "not later than the first Monday in February of each year." This current deadline was established in 1990 (P.L. 101-508, enacted 11-05-1990), first applying to the FY1992 budget. Prior to this 1990 change, and applying to FY1988 -FY1991, the deadline was "on or before the first Monday after January 3 of each year" but with an exception for FY 1987, specifying February 5, 1986 for the submission of the FY1987 budget (P.L. 99-177). Before this, the President's budget was required to be submitted within 15 days after a regular session convened beginning with FY1952 (P.L. 81-784). Before this, the Budget and Accounting Act of 1921 (P.L. 67-13) required that the President's budget be submitted on the day Congress convened for a regular session.

Fiscal Year	Date of Submission	Deadline⁵	Budget Submitted by Deadline	Notes
FY1992	02-04-1991	02-04-1991	yes	
FY1993	01-29-1992	02-03-1992	yes	
FY1994	04-08-1993	02-01-1993	no	Transition budget; overview by incoming president (Clinton) submitted 02-17-1993
FY1995	02-07-1994	02-07-1994	yes	
FY1996	02-06-1995	02-06-1995	yes	
FY1997	03-19-1996	02-05-1996	no	“thematic overview” submitted 02-05-1996; attributed delay to “uncertainty over 1996 appropriations as well as possible mandatory programs and tax policy”
FY1998	02-06-1997	02-03-1997	no	State of the Union address made on 02-04-1997
FY1999	02-02-1998	02-02-1998	yes	
FY2000	02-01-1999	02-01-1999	yes	
FY2001	02-07-2000	02-07-2000	yes	
FY2002	04-09-2001	02-05-2001	no	Transition budget; overview by incoming president (Bush) submitted 02-28-2001
FY2003	02-04-2002	02-04-2002	yes	
FY2004	02-03-2003	02-03-2003	yes	
FY2005	02-02-2004	02-02-2004	yes	
FY2006	02-07-2005	02-07-2005	yes	
FY2007	02-06-2006	02-06-2006	yes	
FY2008	02-05-2007	02-05-2007	yes	
FY2009	02-04-2008	02-04-2008	yes	
FY2010	05-07-2009	02-02-2009	no	Transition budget; overview by incoming president (Obama) submitted 02-26-2009
FY2011	02-01-2010	02-01-2010	yes	
FY2012	02-14-2011	02-07-2011	no	

Sources: Budget of the United States Government, Fiscal Years 1990-2012; *Congressional Record*.

Dates of Submission of the Mid-Session Review, FY1980-FY2012⁶

Fiscal Year	Date of Submission	Submitted on Time?	No. of Days Before (-) or After Deadline	President	House Document	
					Number	Date
1980	07-12-1979	Yes	-3	Carter	96-163	07-16-1979
1981	07-21-1980	No	6	Carter	96-344	07-22-1980
1982	07-15-1981	Yes	0	Reagan	97-73	07-15-1981
1983	07-30-1982	No	15	Reagan	97-220	08-02-1982
1984	07-25-1983	No	10	Reagan	98-87	07-26-1983
1985	08-15-1984	No	31	Reagan	98-251	09-05-1984
1986	08-30-1985	No	46	Reagan	99-99	09-04-1985
1987	08-06-1986	No	22	Reagan	99-254	08-06-1986
1988	08-17-1987	No	33	Reagan	100-99	09-09-1987
1989	07-28-1988	No	13	Reagan	100-217	07-28-1988
1990	07-18-1989	No	3	Bush (41)	101-86	07-21-1989
1991	07-16-1990 ^a	Yes ^a	0	Bush (41)	101-217	07-18-1990
1992	07-15-1991	Yes	0	Bush (41)	102-115	07-17-1991
1993	07-24-1992	No	9	Bush (41)	102-365	07-24-1992
1994	09-01-1993 ^b	No ^b	48	Clinton	103-133	09-0-1993 ^b
1995	07-14-1994	Yes	-1	Clinton	[none]	—
1996	07-28-1995 ^c	No ^c	13	Clinton	[none] ^c	—
1997	07-16-1996	No	1	Clinton	104-247	07-18-1996
1998	09-05-1997	No	52	Clinton	105-129	09-15-1997
1999	05-26-1998	Yes	-50	Clinton	[none]	—
2000	06-28-1999	Yes	-17	Clinton	[none]	—
2001	06-26-2000	Yes	-19	Clinton	[none]	—
2002	08-22-2001	No	38	Bush (43)	[none]	—
2003	07-15-2002	Yes	0	Bush (43)	107-245	07-16-2002
2004	07-15-2003	Yes	0	Bush (43)	[none]	—
2005	07-30-2004	No	15	Bush (43)	[none]	—
2006	07-13-2005	Yes	-2	Bush (43)	[none]	—
2007	07-11-2006	Yes	-4	Bush (43)	109-122	07-17-2006
2008	07-11-2007	Yes	-4	Bush (43)	110-46	07-16-2002
2009	07-28-2008	No	13	Bush (43)	—	—
2010	08-25-2009	No	41	Obama	—	—

⁶ This table was originally included in CRS report RL32509, *The Mid-Session Review of the President's Budget: Timing Issues*, by Robert Keith. It has been updated to reflect actions taken after December 31, 2009.

Fiscal Year	Date of Submission	Submitted on Time?	No. of Days Before (-) or After Deadline	President	House Document	
					Number	Date
2011	07-23-2010	No	8	Obama	111-43	9/16/2010
2012	09-01-2012	No	48	Obama	—	—

Note: “Bush (41)” refers to President George H.W. Bush, the 41st President, and “Bush (43)” refers to President George W. Bush, the 43rd President.

- a. In 1990, the July 15 deadline fell on a Sunday; therefore, the report for this year is considered to have been submitted in a timely manner.
- b. “Preliminary” materials relating to the mid-session review were submitted on July 15, 1993.
- c. “Preliminary” materials relating to the mid-session review were submitted on July 14, 1995 and printed as H. Doc. 104-98 (July 17, 1995).

IV. The Congressional Budget Process

The Congressional Budget and Impoundment Control Act of 1974 establishes the congressional budget process as the means by which Congress coordinates the various budget-related actions (such as the consideration of appropriations and revenue measures) taken by it during the course of the year. The process is centered around an annual concurrent resolution on the budget that sets aggregate budget policies and functional priorities for at least the next five fiscal years.

Because a concurrent resolution is not a law—it cannot be signed or vetoed by the President—the budget resolution does not have statutory effect; no money can be raised or spent pursuant to it. The main purpose of the budget resolution is to establish the framework within which Congress considers separate revenue, spending, and other budget-related legislation. Revenue and spending amounts set in the budget resolution establish the basis for the enforcement of congressional budget policies through points of order. The budget resolution also initiates the reconciliation process for conforming existing revenue and spending laws to congressional budget policies.

Formulation and Content of the Budget Resolution

The congressional budget process begins upon the presentation of the President's budget in January or February. The timetable set forth in the 1974 Congressional Budget Act calls for the final adoption of the budget resolution by April 15, well before the beginning of the new fiscal year on October 1. Although the House and Senate often pass the budget resolution separately before April 15, they often do not reach final agreement on it until after the deadline—sometimes months later (see Tables 3 and 4). The 1974 act bars consideration of revenue, spending, and debt-limit measures for the upcoming fiscal year until the budget resolution for that year has been adopted, but certain exceptions are provided (such as the exception that allows the House to consider the regular appropriations bills after May 15, even if the budget resolution has not been adopted by then).

The 1974 Congressional Budget Act requires the budget resolution, for each fiscal year covered, to set forth budget aggregates and spending levels for each functional category of the budget.⁷ The aggregates included in the budget resolution are as follows:

- * total revenues (and the amount by which the total is to be changed by legislative action);
- * total new budget authority and outlays;

⁷ The functional categories provide a broad statement of budget priorities and facilitate the analysis of trends in related programs regardless of the type of financial transaction or agency organization. While the use of functional classifications by the federal government can be traced to the first appropriations act, the modern structure of functional categories originated with the 1948 budget and has evolved over time. The President may change the functional categories only in consultation with the House and Senate Appropriations Committees and Budget Committees (31 U.S.C. 1104(c)). For further information on the functional categories, see Government Accountability Office, *Budget Function Classifications: Origins, Trends, and Implications for Current Uses*, GAO/AIMD-98-67, February 1998.

- * the surplus or deficit; and
- * the debt limit.

With regard to each of the functional categories, the budget resolution must indicate for each fiscal year the amounts of new budget authority and outlays, and they must add up to the corresponding spending or aggregates.

The Congressional Budget Process Timetable

Date	Action
First Monday in February	President submits budget to Congress.
February 15	Congressional Budget Office submits economic and budget outlook report to Budget Committees.
Six weeks after President submits budget	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports budget resolution.
April 15	Congress completes action on budget resolution.
May 15	Annual appropriations bills may be considered in the House, even if action on budget resolution has not been completed.
June 10	House Appropriations Committee reports last annual appropriations bill.
June 15	Congress completes action on reconciliation legislation (if required by budget resolution).
June 30	House completes action on annual appropriations bills.
July 15	President submits mid-session review of his budget to Congress.
October 1	Fiscal year begins.

Source: Section 300 of the Congressional Budget Act of 1974, as amended (P.L. 93-344, 2 U.S.C. 631).

Aggregate amounts in the budget resolution do not reflect the revenues or spending of the Social Security trust funds, although these amounts are set forth separately in the budget resolution for purposes of Senate enforcement procedures.

The budget resolution does not allocate funds among specific programs or accounts, but the major program assumptions underlying the functional amounts are often discussed in the reports accompanying each resolution. Some recent reports have contained detailed information on the program levels assumed in the resolution. These assumptions are not binding on the affected committees. Finally, the 1974 act allows certain additional matters to be included in the budget resolution. The most important optional feature of a budget resolution is reconciliation directives.

Dates of Final Adoption of the Annual Budget Resolution, FY1976-FY2011⁸

Fiscal Year	Date Adopted	Fiscal Year	Date Adopted
1976	05-14-1975	1994	04-01-1993
1977	05-13-1976	1995	05-12-1994
1978	05-17-1977	1996	06-29-1995
1979	05-17-1978	1997	06-13-1996
1980	05-24-1979	1998	06-05-1997
1981	06-12-1980	1999	[none]
1982	05-21-1981	2000	04-15-1999
1983	06-23-1982	2001	04-13-2000
1984	06-23-1983	2002	05-10-2001
1985	10-01-1984	2003	[none]
1986	08-01-1985	2004	04-11-2003
1987	06-27-1986	2005	[none]
1988	06-24-1987	2006	04-28-2005
1989	06-06-1988	2007	[none]
1990	05-18-1989	2008	05-17-2007
1991	10-09-1990	2009	06-05-2008
1992	05-22-1991	2010	04-29-2009
1993	05-21-1992	2011	[none]
2012	[none]		

Source: Legislative Information System (LIS).

The House and Senate Budget Committees are responsible for marking up and reporting the budget resolution. In the course of developing the budget resolution, the Budget Committees hold hearings, receive "views and estimates" reports from other committees, and obtain information from CBO. These "views and estimates" reports of House and Senate committees provide the Budget Committees with information on the preferences and legislative plans of congressional committees regarding budgetary matters within their jurisdiction.

CBO assists the Budget Committees in developing the budget resolution by issuing, early each year, a report on the economic and budget outlook that includes baseline budget projections. The baseline projections presented in the report are supported by more detailed projections for accounts and programs; CBO usually revises the baseline projections one or more times before the Budget Committees mark up the budget resolution. In addition, CBO issues a report analyzing the President's budgetary proposals in light of CBO's own economic and technical assumptions. In past years, CBO also

⁸ This table was originally included in CRS report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr. and Justin Murray.

issued an annual report on spending and revenue options for reducing the deficit or maintaining the surplus.

The extent to which the Budget Committees (and the House and Senate) consider particular programs when they act on the budget resolution varies from year to year. Although any programmatic assumptions generated in this process are not binding on the committees of jurisdiction, they often influence the final outcome.

Floor consideration of the budget resolution is guided by House and Senate rules and practices. In the House, the Rules Committee usually reports a special rule (a simple House resolution), which, once approved, establishes the terms and conditions under which the budget resolution is considered. This special rule typically specifies which amendments may be considered and the sequence in which they are to be offered and voted on. It has been the practice in recent years to allow consideration of a few amendments (as substitutes for the entire resolution) that present broad policy choices. In the Senate, the amendment process is less structured, relying on agreements reached by the leadership through a broad consultative process. The amendments offered in the Senate may entail major policy choices or may be focused on a single issue.

Achievement of the policies set forth in the annual budget resolution depends on the legislative actions taken by Congress (and their approval or disapproval by the President), the performance of the economy, and technical considerations. Many of the factors that determine whether budgetary goals will be met are beyond the direct control of Congress. If economic conditions—growth, employment levels, inflation, and so forth—vary significantly from projected levels, so too will actual levels of revenue and spending. Similarly, actual levels may differ substantially if the technical factors upon which estimates are based, such as the rate at which agencies spend their discretionary funds or participants become eligible for entitlement programs, prove faulty.

Budget Resolution Enforcement

Congress's regular tools for enforcing the budget resolution each year are overall spending ceilings and revenue floors and committee allocations and subdivisions of spending. In order for the enforcement procedures to work, Congress must have access to complete and up-to-date budgetary information so that it can relate individual measures to overall budget policies and determine whether adoption of a particular measure would be consistent with those policies. Substantive and procedural points of order are designed to obtain congressional compliance with budget rules. A point of order may bar House or Senate consideration of legislation that violates the spending ceilings and revenue floors in the budget resolution, committee subdivisions of spending, or congressional budget procedures.

Budget Resolution Aggregates

In the early years after the 1974 Congressional Budget Act, the principal enforcement mechanism was the ceiling on total budget authority and outlays and the floor under total

revenues set forth in the budget resolution. The limitations inherent in this mechanism soon became apparent. For example, the issue of controlling breaches of the spending ceilings usually did not arise until Congress acted on supplemental appropriations acts, when the fiscal year was well underway. The emergency nature of the legislation often made it difficult to uphold the ceilings.

Changes sometimes are made in budget resolutions by virtue of the operation of reserve funds. Generally, reserve funds allow increases to be made in various spending levels associated with the budget resolution for legislation meeting criteria specified in the budget resolution, as long as any increases spending from the legislation is offset (e.g., by revenue increases) so as to be deficit neutral.

Allocations of Spending to Committees

In view of the inadequacies in the early years of congressional budgeting of relying on enforcement of the budget totals, Congress changed the focus of enforcement in the 1980s to the committee allocations and subdivisions of spending made pursuant to Section 302 of the act. The key to enforcing budget policy is to relate the budgetary impact of individual pieces of legislation to the overall budget policy. Because Congress operates through its committee system, an essential step in linking particular measures to the budget is to allocate the spending amounts set forth in the budget resolution among House and Senate committees.

Section 302(a) provides for allocations to committees to be made in the statement of managers accompanying the conference report on the budget resolution. A Section 302(a) allocation is made to each committee which has jurisdiction over spending, both for the budget year and the full period covered by the budget resolution—at least five fiscal years.

The committee allocations do not take into account jurisdiction over discretionary authorizations funded in annual appropriations acts. The amounts of new budget authority and outlays allocated to committees in the House or Senate may not exceed the aggregate amounts of budget authority and outlays set forth in the budget resolution. Although these allocations are made by the Budget Committees, they are not the unilateral preferences of these committees. They are based on assumptions and understandings developed in the course of formulating the budget resolution.

After the allocations are made under Section 302(a), the House and Senate Appropriations Committees subdivide the amounts they receive among their 12 subcommittees, as required by Section 302(b). The subcommittees' Section 302(b) subdivisions may not exceed the total amount allocated to the committee. Each Appropriations Committee reports its subdivisions to its respective chamber; the appropriations bills may not be considered until such a report has been filed.

Scoring and Cost Estimates

Scoring (also called scorekeeping) is the process of measuring the budgetary effects of pending and enacted legislation and assessing its impact on a budget plan.⁹ In the congressional budget process, scoring serves several broad purposes. First, scoring informs members of Congress and the public about the budgetary consequences of their actions. When a budgetary measure is under consideration, scoring information lets members know whether adopting the amendment or passing the bill at hand would breach the budget. Further, scoring information enables members to judge what must be done in upcoming legislative action to achieve the year's budgetary goals. Finally, scoring is designed to assist Congress in enforcing its budget plans. In this regard, scorekeeping is used largely to determine whether points of order under the 1974 act may be sustained against legislation violating budget resolution levels, as well as the recently-enacted statutory limits on discretionary spending under the Budget Control Act of 2011.

The principal scorekeepers for Congress are the House and Senate Budget Committees, which provide the presiding officers of their respective chambers with the estimates needed to determine if legislation violates the aggregate levels in the budget resolution or the committee subdivisions of spending. The Budget Committees make summary scoring reports available to members on a frequent basis, usually geared to the pace of legislative activity. CBO assists Congress in these activities by preparing cost estimates of legislation, which are included in committee reports, and scoring reports for the Budget committees.¹⁰ The Joint Committee on Taxation supports Congress by preparing estimates of the budgetary impact of revenue legislation.¹¹

Points of Order

The 1974 Congressional Budget Act provides for both substantive and procedural points of order to block violations of budget resolution policies and congressional budget procedures. One element of substantive enforcement is based on Section 311 of the act, which bars Congress from considering legislation that would cause total revenues to fall

⁹ In recent years, there has been controversy over whether budgetary legislation, especially tax measures, would be scored more accurately using “dynamic” rather than “static” estimates as well as whether dynamic estimating is feasible. At the beginning of the 108th Congress, the House adopted a rule to require the reporting of dynamic revenue estimates (clause 3(h)(2) of House Rule XIII). Neither the new rule nor the 1974 act requires the Budget Committee to use these estimates for budget enforcement purposes, presumably as long as alternative estimates are available. However, neither the new rule nor the 1974 act precludes the Budget Committee from using these estimates for that purpose. For information on dynamic scoring issues, see CRS Report RL31949, *Issues in Dynamic Revenue Estimating*, and CRS Report RS22020, *Dynamic Revenue Estimating: A Brief Overview*, both by Jane G. Gravelle.

¹⁰ Prior to the creation of CBO and the House and Senate Budget Committees, Congress relied on OMB, GAO, the Joint Committee on Taxation, and the Joint Committee on Reduction of Non-Essential Federal Expenditures (1941-1974) to provide information on the impact of congressional action on the federal budget.

¹¹ The Joint Committee on Taxation (JCT) was created in 1926 generally to assist Congress in examining the administration of the internal revenue laws. Its responsibilities have expanded as the process by which Congress considers revenue legislation has changed. More information on the history of the JCT is available on its website at [<http://www.jct.gov/about-us/history.html>].

below the level set in the budget resolution or total new budget authority or total outlays to exceed the budgeted level. The House and Senate both enforce the spending ceilings for the first fiscal year only; the revenue floor, however, is enforced for the first fiscal year and the full number of fiscal years covered by the budget resolution.

In the House (but not the Senate), Section 311 does not apply to spending legislation if the committee reporting the measure has stayed within its allocation of new discretionary budget authority. Accordingly, the House may take up any spending measure that is within the appropriate committee allocations, even if it would cause total spending to be exceeded. Neither chamber bars spending legislation that would cause functional allocations in the budget resolution to be exceeded.

Section 302(f) of the 1974 act bars the House and Senate from considering any spending measure that would cause the relevant committee's spending allocations to be exceeded; in the House, the point of order applies only to violations of allocations of new discretionary budget authority. Further, the point of order also applies to suballocations of spending made by the Appropriations Committees.

In addition to points of order to enforce compliance with the budget resolution and the allocations and subdivisions made pursuant to it, the 1974 act contains points of order to ensure compliance with its procedures. Perhaps the most important of these is Section 303, which bars consideration of any revenue, spending, entitlement, or debt-limit measure prior to adoption of the budget resolution. However, the rules of the House permit it to consider regular appropriations bills after May 15, even if the budget resolution has not yet been adopted.

When the House or Senate considers a revenue or a spending measure, the chairman of the respective Budget Committee sometimes makes a statement advising the chamber as to whether the measure violates any of these points of order. If no point of order is made, or if the point of order is waived, the House or Senate may consider a measure despite any violations of the 1974 act. The House often waives points of order by adopting a special rule. The Senate may waive points of order by unanimous consent or by motion under Section 904 of the act. The Senate requires a three-fifths vote of the membership to waive certain provisions of the act.

In five instances, in 1998 (for FY1999), 2002 (for FY2003), 2004 (for FY2005), 2006 (for FY2007), and 2010 (for FY2011), the House and Senate failed to reach agreement on a budget resolution. On these occasions, one or both houses agreed to their own "deeming resolutions," which established the basis for enforcing points of order under the 1974 act in that house only.

Timing of House Action on Budget Resolutions, FY1976-FY2012¹²

Fiscal Year	Budget Resolution (Companion Measure)	Type ^a	Date Consideration Began	Date of Initial Passage	Date Conference Report Adopted
1976	H.Con.Res. 218 (S.Con.Res. 32)	first	04-30-1975	05-01-1975	05-14-1975
	H.Con.Res. 466 (S.Con.Res. 76)	second	11-11-1975	11-12-1975	12-12-1975
1977	S.Con.Res. 109 (H.Con.Res. 611)	first	04-27-1976	04-29-1976	05-13-1976
	S.Con.Res. 139 (H.Con.Res. 728)	second	09-08-1976	09-09-1976	09-16-1976
	S.Con.Res. 10 (H.Con.Res. 110)	third	02-22-1977	02-23-1977	03-03-1977
1978	S.Con.Res. 19 (H.Con.Res. 214)	first	05-05-1977	05-05-1977	05-17-1977
	H.Con.Res. 341 (S.Con.Res. 43)	second	09-07-1977	09-08-1977	09-15-1977
1979	S.Con.Res. 80 (H.Con.Res. 559)	first	05-02-1978	05-10-1978	05-17-1978
	H.Con.Res. 683 (S.Con.Res. 104)	second	08-15-1978	08-16-1978	09-21-1978
1980	H.Con.Res. 107 (S.Con.Res. 22)	first	04-30-1979	05-14-1979	05-24-1979
	S.Con.Res. 53 (H.Con.Res. 186)	second	11-28-1979	11-28-1979	— ^b
1981	H.Con.Res. 307 (S.Con.Res. 86)	first	04-23-1980	05-07-1980	06-12-1980
	H.Con.Res. 448 (S.Con.Res. 119)	second	11-18-1980	11-18-1980	11-20-1980
1982	H.Con.Res. 115 (S.Con.Res. 19)	first	04-30-1981	05-07-1981	05-20-1981
	S.Con.Res. 50 (H.Con.Res. 230)	second	12-10-1981	12-10-1981	— ^c
1983	S.Con.Res. 92 (H.Con.Res. 352)	—	06-10-1982	06-10-1982	06-22-1982
1984	H.Con.Res. 91 (S.Con.Res. 27)	—	03-22-1983	03-23-1983	06-23-1983
1985	H.Con.Res. 280 (S.Con.Res. 106)	—	04-04-1984	04-05-1984	10-01-1984
1986	S.Con.Res. 32 (H.Con.Res. 152)	—	05-22-1985	05-23-1985	08-01-1985
1987	S.Con.Res. 120 (H.Con.Res. 337)	—	05-14-1986	05-15-1986	06-26-1986
1988	H.Con.Res. 93 (S.Con.Res. 49)	—	04-08-1987	04-09-1987	06-23-1987

¹² This table was originally included in CRS report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr. and Justin Murray. It has been updated to reflect actions taken after April 4, 2011.

Fiscal Year	Budget Resolution (Companion Measure)	Type ^a	Date Consideration Began	Date of Initial Passage	Date Conference Report Adopted
1989	H.Con.Res. 268 (S.Con.Res. 113)	—	03-23-1988	03-23-1988	05-26-1988
1990	H.Con.Res. 106 (S.Con.Res. 30)	—	05-03-1989	05-04-1989	05-17-1989
1991	H.Con.Res. 310 (S.Con.Res. 110)	—	04-25-1990	05-01-1990	10-08-1990
1992	H.Con.Res. 121 (S.Con.Res. 29)	—	04-16-1991	04-17-1991	05-22-1991
1993	H.Con.Res. 287 (S.Con.Res. 106)	—	03-04-1992	03-05-1992	05-21-1992
1994	H.Con.Res. 64 (S.Con.Res. 18)	—	03-17-1993	03-18-1993	03-31-1993
1995	H.Con.Res. 218 (S.Con.Res. 63)	—	03-10-1994	03-11-1994	05-05-1994
1996	H.Con.Res. 67 (S.Con.Res. 13)	—	05-17-1995	05-18-1995	06-29-1995
1997	H.Con.Res. 178 (S.Con.Res. 57)	—	05-15-1996	05-16-1996	06-12-1996
1998	H.Con.Res. 84 (S.Con.Res. 27)	—	05-20-1997	05-21-1997	06-05-1997
1999 ^d	H.Con.Res. 284 (S.Con.Res. 86)	—	06-04-1998	06-05-1998	—
2000	H.Con.Res. 68 (S.Con.Res. 20)	—	03-25-1999	03-25-1999	04-14-1999
2001	H.Con.Res. 290 (S.Con.Res. 101)	—	03-23-2000	03-23-2000	04-13-2001
2002	H.Con.Res. 83 (no companion measure) ^e	—	03-27-2001	03-28-2001	05-09-2001
2003 ^f	H.Con.Res. 353 (S.Con.Res. 100)	—	03-20-2002	03-20-2002	—
2004	H.Con.Res. 95 (S.Con.Res. 23)	—	03-20-2003	03-21-2003	04-11-2003
2005 ^g	S.Con.Res. 95 (H.Con.Res. 393)	—	03-24-2004	03-25-2004	05-19-2004
2006	H.Con.Res. 95 (S.Con.Res. 18)	—	03-16-2005	03-17-2005	04-28-2005
2007 ^h	H.Con.Res. 376 (S.Con.Res. 83)	—	04-06-2006	05-18-2006	—
2008	S.Con.Res. 21 (H.Con.Res. 99)	—	03-28-2007	03-29-2007	05-17-2007
2009	S.Con.Res. 70 (H.Con.Res. 312)	—	03-12-2008	03-13-2008	06-05-2008
2010	S.Con.Res. 13 (H.Con.Res. 85)	—	04-01-2009	04-02-2009	04-29-2009

Fiscal Year	Budget Resolution (Companion Measure)	Type ^a	Date Consideration Began	Date of Initial Passage	Date Conference Report Adopted
2011 ⁱ	S.Con.Res. 60 (no companion measure)	—	—	—	—
2012	H.Con.Res.34 (no companion measure)	—	04-14-2011	04-15-2011	—

Notes: Congress did not complete action on the budget resolutions for the fiscal years in italics; for those years, the concurrent resolution listed was reported by the applicable budget committee and/or was considered by the House.

- a. "Type" refers to whether the budget resolution was the first, second, or third for the fiscal year. For the first seven years of the congressional budget process, Congress adopted multiple budget resolutions each year. Since the FY1983 budget resolution, Congress has adopted only one a year.
- b. The House rejected its version of the budget resolution and adopted the Senate's version; no conference report was necessary.
- c. The House laid its version of the budget resolution on the table by unanimous consent and adopted the Senate's version; no conference report was necessary.
- d. Congress did not complete action on a budget resolution for FY1999.
- e. The Senate Budget Committee did not mark up or report a budget resolution for FY2002. Instead, the Senate considered the House-passed budget resolution after the Senate Budget Committee was discharged from its consideration.
- f. Congress did not complete action on a budget resolution for FY2003.
- g. Congress did not complete action on a budget resolution for FY2005. The House agreed to the conference report on S.Con.Res. 95, May 19, 2004; the Senate did not consider it.
- h. Congress did not complete action on a budget resolution for FY2007.
- i. The House did not consider a budget resolution for FY2011.

List of Functional and Subfunctional Categories

Functional Categories	Subfunctional Categories
National defense (050)	Department of Defense-Military (051); Atomic energy defense activities (053); Defense-related activities (054)
International affairs (150)	International development and humanitarian assistance (151); International security assistance (152); Conduct of foreign affairs (153); Foreign information and exchange activities (154); International financial programs (155)
General science, space, and technology (250)	General science and basic research (251); Space flight, research, and supporting activities (252)
Energy (270)	Energy supply (271); Energy conservation (272); Emergency energy preparedness (274); Energy information, policy, and regulation (276)
Natural resources and environment (300)	Water resources (301); Conservation and land management (302); Recreational resources (303); Pollution control and abatement (304); Other natural resources (306)
Agriculture (350)	Farm income stabilization (351); Agricultural research and services (352)
Commerce and housing credit (370)	Mortgage credit (371); Postal Service (372); Deposit insurance (373); Other advancement of commerce (376)
Transportation (400)	Ground transportation (401); Air transportation (402); Water transportation (403); Other transportation (407)
Community and regional development (450)	Community development (451); Area and regional development (452); Disaster relief and insurance (453)
Education, training, employment, and social services (500)	Elementary, secondary, and vocational education (501); Higher education (502); Research and general education aids (503); Training and employment (504); Other labor services (505); Social services (506)
Health (550)	Health care services (551); Health research and training (552); Consumer and occupational health and safety (554)
Medicare (570)	Medicare (571)
Income security (600)	General retirement and disability insurance (excluding social security) (601); Federal employee retirement and disability (602); Unemployment compensation (603); Housing assistance (604); Food and nutrition assistance (605); Other income security (609)
Social security (650)	Social security (651)
Veterans benefits and services (700)	Income security for veterans (701); Veterans education, training and rehabilitation (702); Hospital and medical care for veterans (703); Veterans housing (704); Other veterans benefits and services (705)
Administration of justice (750)	Federal law enforcement activities (751); Federal litigative and judicial activities (752); Federal correctional activities (753); Criminal justice assistance (754)
General government (800)	Legislative functions (801); Executive direction and management (802); Central fiscal operations (803); General property and records management (804); Central personnel management (805); General purpose fiscal assistance (806); Other general government (808); Deductions for offsetting receipts (809)
Net interest (900)	Interest on Treasury debt securities (gross) (901); Interest received by on-budget trust funds (902); Interest received by off-budget trust funds (903); Other interest (908)
Allowances (920)	Varies by year
Undistributed offsetting receipts (950)	Employer share, employee retirement (on-budget) (951); Employer share, employee retirement (off-budget) (952); Rents and royalties on the Outer Continental Shelf (953); Sale of major assets (954); Other undistributed offsetting receipts (959)

V. Spending Legislation

The spending policies of the budget resolution generally are implemented through two different types of spending legislation. Policies involving discretionary spending are implemented in the context of annual appropriations acts, whereas policies affecting direct or mandatory spending (which, for the most part, involves entitlement programs) are carried out in substantive legislation.

All discretionary spending is under the jurisdiction of the House and Senate Appropriations Committees. Direct spending is under the jurisdiction of the various legislative committees of the House and Senate; the House Ways and Means Committee and the Senate Finance Committee have the largest shares of direct spending jurisdiction. (Some entitlement programs, such as Medicaid, are funded in annual appropriations acts, but such spending is not considered to be discretionary.) The enforcement procedures under the congressional budget process, mentioned above, apply equally to discretionary and direct spending.

Authorizing Measures

The rules of the House and (to a lesser extent) the Senate require that agencies and programs be authorized in law before an appropriation is made for them. An authorizing act is a law that (1) establishes a program or agency and the terms and conditions under which it operates; and (2) authorizes the enactment of appropriations for that program or agency. Authorizing legislation may originate in either the House or the Senate and may be considered any time during the year. Many agencies and programs have temporary authorizations that have to be renewed annually or every few years.

Action on appropriations measures sometimes is delayed by the failure of Congress to enact necessary authorizing legislation. The House and Senate often waive or disregard their rules against unauthorized appropriations for ongoing programs that have not yet been reauthorized. The committee reports to accompany general appropriations bills are required to include a list of “all appropriations contained in the bill not currently authorized by law” (House Rule XIII, clause 3(f)(1)(B)). In addition, the Congressional Budget Office prepares an annual report on unauthorized appropriations and expiring authorizations.¹³

The budgetary impact of authorizing legislation depends on whether it contains only discretionary authorizations (for which funding is provided in annual appropriations acts) or direct spending, which itself enables an agency to enter into obligations.

¹³ The 2011 version of this report is available at [<http://www.cbo.gov/doc.cfm?index=12044>]. Because full-year appropriations had not been provided at the time the report was prepared, it does not include information on unauthorized appropriations for fiscal year 2011.

The Annual Appropriations Process

An appropriations act is a law passed by Congress that provides federal agencies legal authority to incur obligations and the Treasury Department authority to make payments for designated purposes. The power of appropriation derives from the Constitution, which in Article I, Section 9, provides that "[n]o money shall be drawn from the Treasury but in consequence of appropriations made by law." The power to appropriate is exclusively a legislative power; it functions as a limitation on the executive branch. An agency may not spend more than the amount appropriated to it, and it may use available funds only for the purposes and according to the conditions provided by Congress.

The Constitution does not require annual appropriations, but since the First Congress the practice has been to make appropriations for a single fiscal year. Appropriations must be used (obligated) in the fiscal year for which they are provided, unless the law provides that they shall be available for a longer period of time. All provisions in an appropriations act, such as limitations on the use of funds, expire at the end of the fiscal year, unless the language of the act extends their period of effectiveness.

The President requests annual appropriations in his budget submitted each year. In support of the President's appropriations requests, agencies submit justification materials to the House and Senate Appropriations Committees. These materials provide considerably more detail than is contained in the President's budget and are used in support of agency testimony during Appropriations subcommittee hearings on the President's budget.

Congress passes three main types of appropriations measures. Regular appropriations acts provide budget authority to agencies for the next fiscal year. Supplemental appropriations acts provide additional budget authority during the current fiscal year when the regular appropriation is insufficient or to finance activities not provided for in the regular appropriation. Continuing appropriations acts provide stop-gap (or full-year) funding for agencies that have not received a regular appropriation.

In a typical session, Congress acts on 12 regular appropriations bills and at least two supplemental appropriations measures. Because of recurring delays in the appropriations process, Congress also typically passes one or more continuing appropriations each year. The scope and duration of these measures depend on the status of the regular appropriations bills and the degree of budgetary conflict between the President and Congress. In recent years, Congress has merged two or more of the regular appropriations acts for a fiscal year into a single, omnibus appropriations act.

By precedent, appropriations originate in the House of Representatives. In the House, appropriations measures are originated by the Appropriations Committee (when it marks up or reports the measure) rather than being introduced by a member beforehand. Before the full Committee acts on the bill, it is considered in the relevant Appropriations subcommittee (the House and Senate Appropriations Committees have 12 parallel subcommittees). The House subcommittees typically hold extensive hearings on

appropriations requests shortly after the President's budget is submitted. In marking up their appropriations bills, the various subcommittees are guided by the discretionary spending limits and the allocations made to them under Section 302 of the 1974 Congressional Budget Act.

The Senate usually considers appropriations measures after they have been passed by the House. When House action on appropriations bills is delayed, however, the Senate sometimes expedites its actions by considering a Senate-numbered bill up to the stage of final passage. Upon receipt of the House-passed bill in the Senate, it is amended with the text that the Senate already has agreed to (as a single amendment) and then passed by the Senate. Hearings in the Senate Appropriations subcommittees generally are not as extensive as those held by counterpart subcommittees in the House.

The basic unit of an appropriation is an account. A single unnumbered paragraph in an appropriations act comprises one account and all provisions of that paragraph pertain to that account and to no other, unless the text expressly gives them broader scope. Any provision limiting the use of funds enacted in that paragraph is a restriction on that account alone.

Over the years, appropriations have been consolidated into a relatively small number of accounts. It is typical for a federal agency to have a single account for all its expenses of operation and additional accounts for other purposes such as construction. Accordingly, most appropriation accounts encompass a number of activities or projects. The appropriation sometimes earmarks specific amounts to particular activities within the account, but the more common practice is to provide detailed information on the amounts intended for each activity in other sources (principally, the committee reports accompanying the measures).

In addition to the substantive limitations (and other provisions) associated with each account, each appropriations act has "general provisions" that apply to all of the accounts in a title or in the whole act. These general provisions appear as numbered sections, usually at the end of the title or the act.

The standard appropriation is for a single fiscal year—the funds have to be obligated during the fiscal year for which they are provided; they lapse if not obligated by the end of that year. An appropriation that does not mention the period during which the funds are to be available is a one-year appropriation. Congress also makes no-year appropriations by specifying that the funds shall remain available until expended. No-year funds are carried over to future years, even if they have not been obligated. Congress sometimes makes multiyear appropriations, which provide for funds to be available for two or more fiscal years.

Appropriations measures also contain other types of provisions that serve specialized purposes. These include provisions that liquidate (pay off) obligations made pursuant to certain contract authority; reappropriate funds provided in previous years; transfer funds from one account to another; rescind funds (or release deferred funds); or set ceilings on

the amount of obligations that can be made under permanent appropriations, on the amount of direct or guaranteed loans that can be made, or on the amount of administrative expenses that can be incurred during the fiscal year. In addition to providing funds, appropriations acts often contain substantive limitations on government agencies.

Detailed information on how funds are to be spent, along with other directives or guidance, is provided in the reports accompanying the various appropriations measures. Agencies ordinarily abide by report language in spending the funds appropriated by Congress.

The appropriations reports do not comment on every item of expenditure. Report language is most likely when the Appropriations Committee prefers to spend more or less on a particular item than the President has requested or when the committee wants to earmark funds for a particular project or activity. When a particular item is mentioned by the committee, there is a strong expectation that the agency will adhere to the instructions.

Relationship Between Authorization and Appropriation Measures¹⁴

Congressional rules enforce a separation of the authorizing and appropriating functions into different measures by separating committee jurisdiction over authorization and appropriations bills, and with points of order prohibiting certain provisions in appropriations measures.

The House and Senate prohibit, in varying ways, language in appropriations bills providing appropriations not authorized by law or legislation on an appropriations bill. An appropriation for purposes not authorized by law, commonly called an unauthorized appropriation, is new budget authority in an appropriations measure (including an amendment or conference report) for agencies or programs with no current authorization, or for which budget authority exceeds the ceiling authorized. Legislation refers to language in appropriations measures that change existing law, such as establishing new law, or amending or repealing current law. Legislation is under the jurisdiction of the legislative committees.

Specifically, House Rule XXI, clause 2, prohibits both unauthorized appropriations and legislation in regular appropriations bills and supplemental appropriations measures which provide funds for two or more agencies. However, House rules do not prohibit such provisions in continuing resolutions. The House prohibition applies to bills reported by the House Appropriations Committee, amendments, and conference reports. The point of order applies to the text of the bill, as well as any amendments or conference reports.

The division between an authorization and an appropriation is a construct of House and Senate rules created to apply only to congressional consideration. If unauthorized appropriations or legislation remain in an appropriations measure as enacted, either

¹⁴ This section has been largely excerpted from CRS Report 97-684, *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter.

because no one raised a point of order or the House or Senate waived the rules, the provision will have the force of law. Unauthorized appropriations, if enacted, are generally available for obligation or expenditure.

**Regular Appropriations Bills Enacted by or on the Start of New Fiscal Year and
Continuing Resolutions, FY1977-FY2011¹⁵**

Fiscal Year	Presidential Administration	Majority Party		Regular Appropriations Bills		CRs Enacted
		Senate	House	Approved by or on October 1	Enacted in CRs	
1977	Gerald Ford	Democrats	Democrats	13	0	(2 ^a)
1978	Jimmy Carter	Democrats	Democrats	9	1	3
1979				5	1	1
1980				3	3	2
1981				1	5	3
1982	Ronald Reagan	Republicans	Democrats	0	4	4
1983				1	7	2
1984				4	3	2
1985				4	8	5
1986				0	7	5
1987				0	13	5
1988		Democrats		0	13	5
1989				13	0	0
1990	George H.W. Bush	Democrats	Democrats	1	0	3
1991				0	0	5
1992				3	1	4
1993				1	0	1
1994	William Clinton	Democrats	Democrats	2	0	3
1995				13	0	0
1996		Republicans	Republicans	0	0 ^b	13
1997				(13) ^c	0	0
1998				1	0	6
1999				1	0	6
2000				4	0	7
2001				2	0	21
2002	George W. Bush	Democrats ^d	Republicans	0	0	8
2003		Republicans ^e		0	0 ^f	8
2004				3	0	5
2005				1	0	3
2006				2	0	3
2007				1	9	4

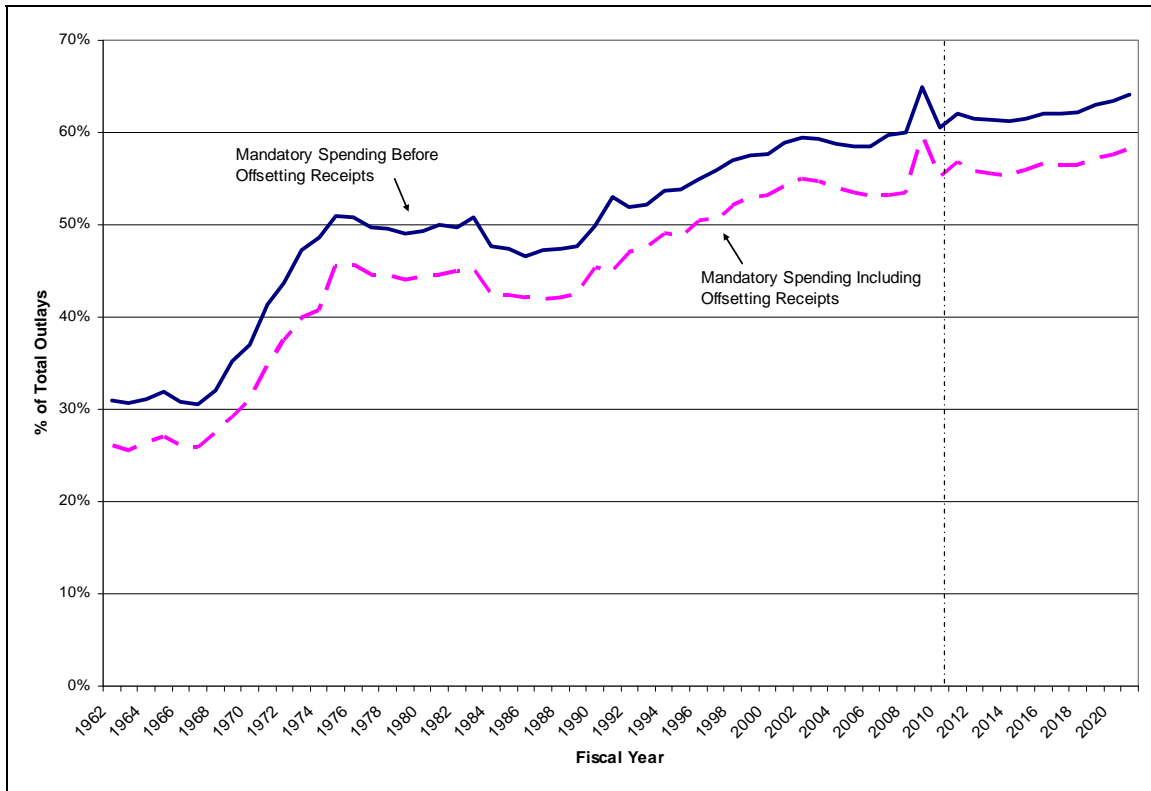
¹⁵ This table was originally included in CRS report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by Sandy Streeter. It has been updated to reflect actions taken after April 26, 2011.

Fiscal Year	Presidential Administration	Majority Party		Regular Appropriations Bills		CRs Enacted
		Senate	House	Approved by or on October 1	Enacted in CRs	
2008	Barack H. Obama	Democrats	Democrats	0	0	4
2009				(3) ^g	0 ^g	2
2010				1	0	2
2011			Democrats/ Republicans	0	1	8

Sources: U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, 94th Congress, 2nd session - 104th Congress, 1st session (Washington: GPO, 1976-1995). U.S. Congress, House, *Calendars of the U.S. House of Representatives and History of Legislation*, 104th Congress, 1st session - 108th Congress, 2nd session (Washington: GPO, 1995-2006).

- a. Although all 13 FY1977 regular appropriations bills became law on or before the start of the fiscal year, two CRs were enacted. These CRs generally provided funding for certain unauthorized activities that had not been included in the regular appropriations acts.
- b. An FY1996 continuing resolution ([P.L. 104-99](#)) provided full-year funding for the FY1996 foreign operations regular bill; however, the continuing resolution provided that the foreign operations measure be enacted separately ([P.L. 104-107](#)).
- c. This number reflects six regular acts being combined to form an omnibus appropriations act, and enacting the other seven bills individually.
- d. On June 6, 2001, the Democrats became the majority in the Senate. By that time, the Senate Appropriations Committee had not reported any FY2002 regular appropriations measures.
- e. The Democrats were the majority in the Senate in 2002, during initial consideration of the 13 FY2003 regular appropriations bills and final action on two of the regular bills. The Republicans were the majority in 2003, during which final action on the remaining 11 FY2003 regular bills occurred.
- f. One measure ([P.L. 108-7](#)) originated as a continuing resolution, but in conference it was converted into an omnibus appropriations resolution.
- g. Three regular appropriations bills were packaged into a single act that also included the initial FY2010 CR ([P.L. 110-329](#)).

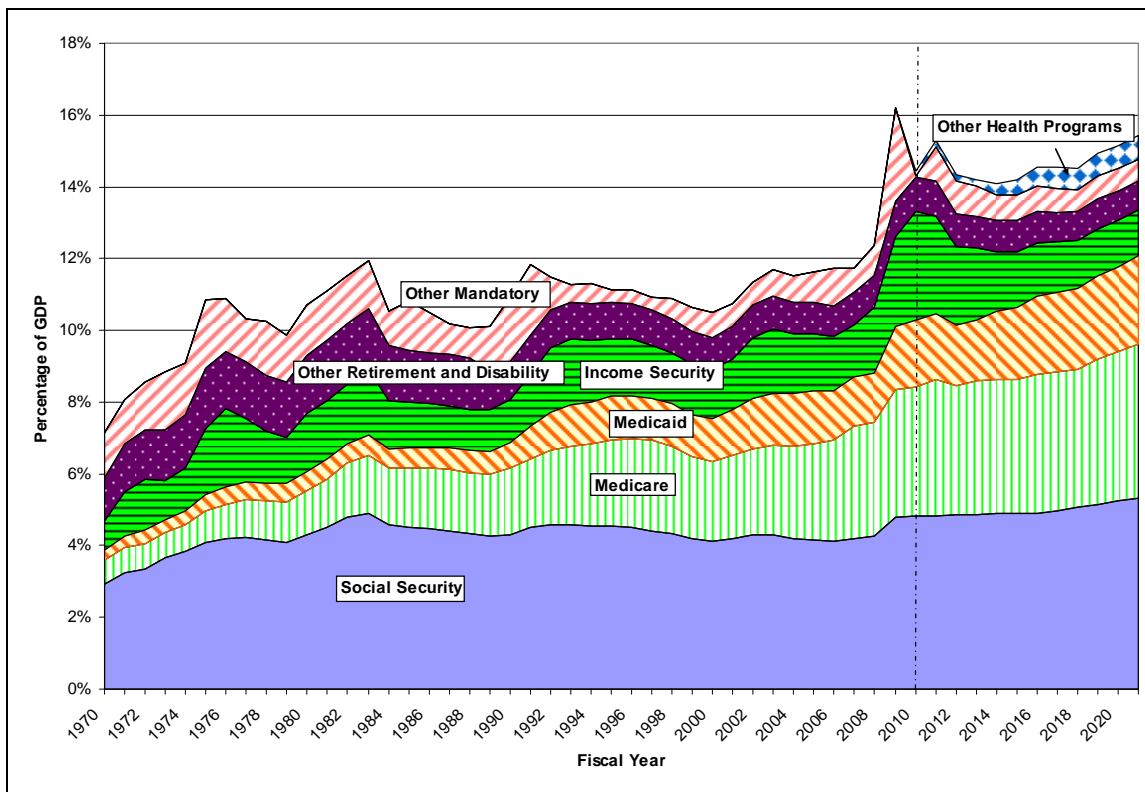
Mandatory Spending and Offsetting Receipts As a Percentage of Total Outlays (FY1962-FY2021)¹⁶



Sources: Data for FY1962-1970 from OMB, *Budget for Fiscal Year 2012, Historical Tables*, Tables 1.3 and 8.5, available at <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/hist.pdf>; Data for FY1971-FY2021 from CBO, *Historical Tables*, available at <http://www.cbo.gov/ftpdocs/120xx/doc12039/historicalTables%5B1%5D.xls> and CBO *Budget Projections* data available at <http://www.cbo.gov/ftpdocs/120xx/doc12039/BudgetTables%5B1%5D.xls>. CBO treats some offsetting receipts, especially regarding Medicare, differently than OMB. CBO baseline projections to the right of dotted line.

¹⁶ Chart from CRS report RL33074, *Mandatory Spending Since 1962*, by D. Andrew Austin and Mindy R. Levit.

Mandatory Spending Before Offsetting Receipts As a Percentage of GDP (FY1970-FY2021)¹⁷



Sources: Offsetting receipts are excluded. CRS calculations based on data from CBO, *Historical Tables*, available at <http://www.cbo.gov/ftpdocs/120xx/doc12039/historicalTables%5B1%5D.xls>; and CBO, *Budget Projections*, data available at <http://www.cbo.gov/ftpdocs/120xx/doc12039/BudgetTables%5B1%5D.xls>. CBO baseline projections depicted to the right of the vertical line.

Notes: CBO added the category “Other Health Programs” to its *Budget Projections* data following the enactment of PPACA and HCERA. This category includes Health Insurance Subsidies, Exchanges, and Related Spending, MERHCF, CHIP, and Other health spending. Prior to PPACA and HCERA, MERHCF and CHIP were included in the “Other Mandatory” category.

¹⁷ Chart from CRS report RL33074, *Mandatory Spending Since 1962*, by D. Andrew Austin and Mindy R. Levit.

VI. Revenue Legislation

Article I, Section 8 of the Constitution gives Congress the power to levy "taxes, duties, imposts, and excises." Section 7 of this article requires that all revenue measures originate in the House of Representatives.

In the House, revenue legislation is under the jurisdiction of the Ways and Means Committee; in the Senate, jurisdiction is held by the Finance Committee. While House rules bar other committees from reporting revenue legislation, sometimes another committee will report legislation levying user fees on a class that benefits from a particular service or program or that is being regulated by a federal agency. In many of these cases, the user fee legislation is referred subsequently to the Ways and Means Committee.

Most revenues derive from existing provisions of the tax code or Social Security law, which continue in effect from year to year unless changed by Congress. This tax structure can be expected to produce increasing amounts of revenue in future years as the economy expands and incomes rise. Nevertheless, Congress usually makes some changes in the tax laws each year, either to raise or lower revenues or to redistribute the tax burden.

Congress typically acts on revenue legislation pursuant to proposals in the President's budget. An early step in congressional work on revenue legislation is publication by CBO of its own estimates (developed in consultation with the Joint Tax Committee) of the revenue impact of the President's budget proposals. The congressional estimates often differ significantly from those presented in the President's budget.

The revenue totals in the budget resolution establish the framework for subsequent action on revenue measures. The budget resolution contains only revenue totals and total recommended changes; it does not allocate these totals among revenue sources (although it does set out Medicare receipts separately), nor does it specify which provisions of the tax code are to be changed.

The House and Senate often consider major revenue measures, such as the Tax Reform Act of 1986, under their regular legislative procedures. However, as has been the case with direct spending programs, many of the most significant changes in revenue policy in recent years have been made in the context of the reconciliation process. Although revenue changes usually are incorporated into omnibus budget reconciliation measures, along with spending changes (and sometimes debt-limit increases), revenue reconciliation legislation may be considered on a separate legislative track (e.g., the Tax Equity and Fiscal Responsibility Act of 1982).

When the reconciliation process is used to advance revenue reductions (or spending increases) that would lead to a deficit, or would enlarge an existing deficit, Section 313 of the 1974 Congressional Budget Act (referred to as the Senate's "Byrd rule") limits the legislative changes to the period covered by the reconciliation directives. Accordingly, some recent tax cuts have been subject to sunset dates.

In enacting revenue legislation, Congress often establishes or alters tax expenditures. The term "tax expenditures" is defined in the 1974 Congressional Budget Act to include revenue losses due to deductions, exemptions, credits, and other exceptions to the basic tax structure. Tax expenditures are a means by which the federal government pursues public policy objectives and can be regarded as alternatives to other policy instruments such as grants or loans. The Joint Tax Committee estimates the revenue effects of legislation changing tax expenditures, and it also publishes five-year projections of these provisions as an annual committee print.

VII. Budget Reconciliation Legislation

Beginning in 1980, Congress has used reconciliation legislation to implement many of its most significant budget policies. Section 310 of the 1974 Congressional Budget Act sets forth a special procedure for the development and consideration of reconciliation legislation. Reconciliation legislation is used by Congress to bring existing revenue and spending law into conformity with the policies in the budget resolution. Reconciliation is an optional process, but Congress has used it more years than not; during the period covering 1980 through 2010, 20 reconciliation measures were enacted into law and three were vetoed.

The reconciliation process has two stages—the adoption of reconciliation instructions in the budget resolution and the enactment of reconciliation legislation that implements changes in revenue or spending laws. Although reconciliation has been used since 1980, specific procedures tend to vary from year to year.

Reconciliation is used to change the amount of revenues, budget authority, or outlays generated by existing law. In a few instances, reconciliation has been used to adjust the public debt limit. On the spending side, the process focuses on entitlement laws; it may not be used, however, to impel changes in Social Security law. Reconciliation sometimes has been applied to discretionary authorizations (which are funded in annual appropriations acts), but this is not the usual practice.

Reconciliation was used in the 1980s and into the 1990s as a deficit-reduction tool. Beginning in the latter part of the 1990s, some reconciliation measures were used principally to reduce revenues, thereby increasing the deficit.

Reconciliation Directives

Reconciliation begins with a directive in a budget resolution instructing designated committees to report legislation changing existing law or pending legislation. These instructions have three components: (1) they name the committee (or committees) that are directed to report legislation; (2) they specify the amounts by which existing laws are to be changed (but do not identify how these changes are to be made, which laws are to be altered, or the programs to be affected); and (3) they usually set a deadline by which the designated committees are to recommend the changes in law. The instructions typically cover the same fiscal years covered by the budget resolution. Sometimes, budget resolutions have provided for more than one reconciliation measure to be considered during a session.

The dollar amounts are computed with reference to the CBO baseline. Thus, a change represents the amount by which revenues or spending would decrease or increase from baseline levels as a result of changes made in existing law. This computation is itself based on assumptions about the future level of revenues or spending under current law (or policy) and about the dollar changes that would ensue from new legislation. Hence, the savings associated with the reconciliation process are assumed savings. The actual

changes in revenues or spending may differ from those estimated when the reconciliation instructions are formulated.

Although the instructions do not mention the programs to be changed, they are based on assumptions as to the savings or deficit reduction (or, in some cases, increases) that would result from particular changes in revenue provisions or spending programs. These program assumptions are sometimes printed in the reports on the budget resolution. Even when the assumptions are not published, committees and members usually have a good idea of the specific program changes contemplated by the reconciliation instructions.

A committee has discretion to decide on the legislative changes to be recommended. It is not bound by the program changes recommended or assumed by the Budget Committees in the reports accompanying the budget resolution. Further, a committee has to recommend legislation estimated to produce dollar changes for each category delineated in the instructions to it.

When a budget resolution containing a reconciliation instruction has been approved by Congress, the instruction has the status of an order by the House and Senate to designated committees to recommend legislation, usually by a date certain. It is expected that committees will carry out the instructions of their parent chamber, but the 1974 Congressional Budget Act does not provide any sanctions against committees that fail to do so.

Development and Consideration of Reconciliation Measures

When more than one committee in the House and Senate is subject to reconciliation directives, the proposed legislative changes usually are consolidated by the Budget Committees into an omnibus bill. The 1974 Congressional Budget Act does not permit the Budget Committees to revise substantively the legislation recommended by the committees of jurisdiction. This restriction pertains even when the Budget Committees estimate that the proposed legislation will fall short of the dollar changes called for in the instructions. Sometimes, the Budget Committees, working with the leadership, develop alternatives to the committee recommendations, to be offered as floor amendments, so as to achieve greater compliance with the reconciliation directives.

The 1974 act requires that amendments offered to reconciliation legislation in either the House or the Senate be deficit neutral. To meet this requirement, an amendment reducing revenues or increasing spending must offset these deficit increases by equivalent revenue increases or spending cuts.

During the first several years' experience with reconciliation, the legislation contained many provisions that were extraneous to the purpose of reducing the deficit. The reconciliation submissions of committees included such things as provisions that had no budgetary effect, that increased spending or reduced revenues, or that violated another committee's jurisdiction.

In 1985, the Senate adopted a rule (commonly referred to as the Byrd rule) on a temporary basis as a means of curbing these practices. The Byrd rule has been extended and modified several times over the years. In 1990, the Byrd rule was incorporated into the 1974 Congressional Budget Act as Section 313 and made permanent.

Although the House has no rule comparable to the Senate's Byrd rule, it may use other devices to control the inclusion of extraneous matter in reconciliation legislation. In particular, the House may use special rules to make in order amendments that strike such matter.

VIII. Impoundment and Line-Item Veto

Impoundment

Although an appropriation limits the amounts that can be spent, it also establishes the expectation that the available funds will be used to carry out authorized activities. Therefore, when an agency fails to use all or part of an appropriation, it deviates from the intentions of Congress. The Impoundment Control Act of 1974 prescribes rules and procedures for instances in which available funds are impounded.

An impoundment is an action or inaction by the President or a federal agency that delays or withholds the obligation or expenditure of budget authority provided in law. The 1974 Impoundment Control Act divides impoundments into two categories and establishes distinct procedures for each. A deferral delays the use of funds; a rescission is a presidential request that Congress rescind (cancel) an appropriation or other form of budget authority. Deferral and rescission are exclusive and comprehensive categories; an impoundment is either a rescission or a deferral—it cannot be both or something else.

Although impoundments are defined broadly by the 1974 act, in practice they are limited to major actions that affect the level or rate of expenditure. As a general practice, only deliberate curtailments of expenditure are reported as impoundments; actions having other purposes that incidentally affect the rate of spending are not recorded as impoundments. For example, if an agency were to delay the award of a contract because of a dispute with a vendor, the delay would not be an impoundment; if the delay were for the purpose of reducing an expenditure, it would be an impoundment. The line between routine administrative actions and impoundments is not clear and controversy occasionally arises as to whether a particular action constitutes an impoundment.

Rescissions

To propose a rescission, the President must submit a message to Congress specifying the amount to be rescinded, the accounts and programs involved, the estimated fiscal and program effects, and the reasons for the rescission. Multiple rescissions can be grouped in a single message. After the message has been submitted to it, Congress has 45 days of "continuous session" (usually a larger number of calendar days) during which it can pass a rescission bill. Congress may rescind all, part, or none of the amount proposed by the President.

If Congress does not approve a rescission in legislation by the expiration of this period, the President must make the funds available for obligation and expenditure. If the President fails to release funds at the expiration of the 45-day period for proposed rescissions, the comptroller general may bring suit to compel their release. This has been a rare occurrence, however.

Deferrals

To defer funds, the President submits a message to Congress setting forth the amount, the affected account and program, the reasons for the deferral, the estimated fiscal and program effects, and the period of time during which the funds are to be deferred. The President may not propose a deferral for a period of time beyond the end of the fiscal year, nor may he propose a deferral that would cause the funds to lapse or otherwise prevent an agency from spending appropriated funds prudently. In accounts where unobligated funds remain available beyond the fiscal year, the President may defer the funds again in the next fiscal year.

At present, the President may defer only for the reasons set forth in the Antideficiency Act, including to provide for contingencies, to achieve savings made possible by or through changes in requirements or greater efficiency of operations, and as specifically provided by law. He may not defer funds for policy reasons (for example, to curtail overall federal spending or because he is opposed to a particular program).

The comptroller general reviews all proposed rescissions and deferrals and advises Congress of their legality and possible budgetary and program effects. The comptroller general also notifies Congress of any rescission or deferral not reported by the President and may reclassify an improperly classified impoundment. In all cases, a notification to Congress by the comptroller general has the same legal effect as an impoundment message of the President.

The 1974 Impoundment Control Act provides for special types of legislation—rescission bills and deferral resolutions—for Congress to use in exercising its impoundment control powers. However, pursuant to court decisions that held the legislative veto to be unconstitutional, Congress may not use deferral resolutions to disapprove a deferral. Further, Congress has been reluctant to use rescission bills regularly. Congress, instead, usually acts on impoundment matters within the framework of the annual appropriations measures.

Line-Item Veto

During the 104th Congress, the Line Item Veto Act (P.L. 104-130) was enacted as an amendment to the 1974 Impoundment Control Act. The Supreme Court ruled the Line Item Veto Act unconstitutional in June 1998.

The authority granted to the President under the Line Item Veto Act differed markedly from the veto authority available to most chief executives at the state level. First, the President could not veto individual parts of legislation submitted for his approval. Under normal constitutional procedures, the President must approve or veto any measure in its entirety. His authority to use the line-item veto came into play only after a measure had been signed into law. Second, this authority applied not only to annual appropriations, but extended to new entitlement spending and targeted tax benefits as well. The line-item veto authority was intended to be in effect for eight years, from the beginning of 1997 through the end of 2004.

The Line Item Veto Act reversed the presumption underlying the process for the consideration of rescissions under the 1974 Impoundment Control Act. Under the Line Item Veto Act, presidential proposals would take effect unless overturned by legislative action. The act authorized the President to identify at enactment individual items in legislation that he proposed not go into effect. The identification was based not just upon the statutory language, but on the entire legislative history and documentation. The President had to notify Congress promptly of his proposals and provide supporting information. Congress had to respond within a limited period of time by enacting a law if it wanted to disapprove the President's proposals; otherwise, they would take effect permanently.

President Clinton exercised the line-item veto authority several times during the 1997 session before the act was declared unconstitutional.

IX. Suggested Reading

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109th Congress, 2nd Session

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Committee on the Budget

UNITED STATES SENATE

1974–2006



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History of the Congressional Budget Process and the Senate Committee on the Budget

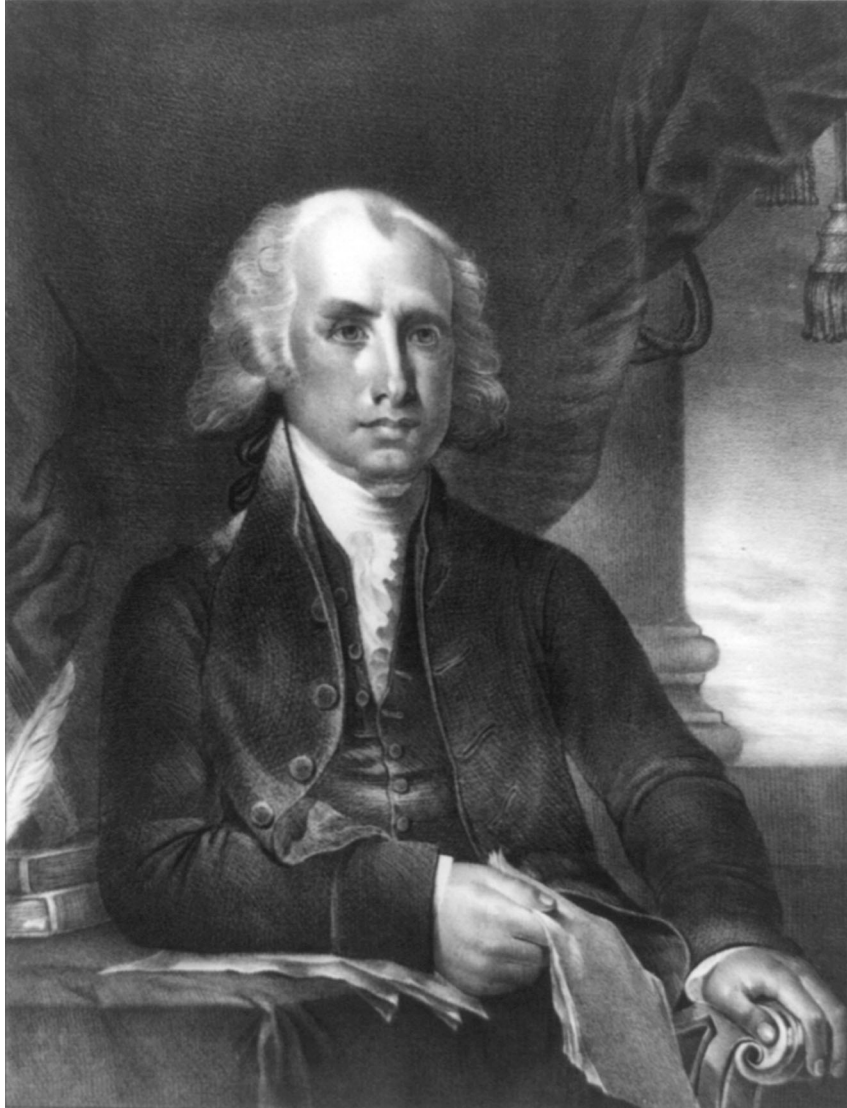
The Senate Budget Committee was created more than 30 years ago under landmark reform legislation, the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; 88 Stat. 297-339; 2 U.S.C. 621 et seq.). The Act also created the parallel Budget Committee in the House of Representatives and established the Congressional Budget Office (CBO). The two Budget Committees and CBO were created for the primary purpose of assisting the Senate and House in developing and enforcing budgetary plans in the form of annual concurrent resolutions on the budget and any required reconciliation legislation. Following a background on the roots of the Federal budgeting system, this section recounts the circumstances that gave rise to budget reform in the early 1970s, examines the legislative history of the 1974 Act, and reviews the origin and development of the Senate Budget Committee, from 1974 to the present.

Background

The Constitution of the United States vests the Congress with key budgetary powers. These powers, often referred to as “the power of the purse,” derive from several provisions in Article I of the Constitution. With respect to raising income through taxation and borrowing, Section 8 declares that “[t]he Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . .” and “[t]o borrow Money on the credit of the United States.” In the case of spending, Section 9 states that “[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .” The Constitution thus ensures a role of pivotal importance for Congress in Federal budgeting by requiring that funds can only be raised, borrowed, and spent through the enactment of legislation.

James Madison, the primary architect of the Constitution and the fourth President of the United States, asserted that vesting budgetary powers in the Congress was a critical element in maintaining freedom and promoting fair government:

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.¹



Courtesy of the Library of Congress, Prints & Photographs Division [LC-USZ62-87924]. James Madison, fourth President of the United States, wrote about the “power over the purse” in the 58th essay of the *Federalist Papers*.

¹ Federalist No. 58 (*Objection That The Number of Members Will Not Be Augmented as the Progress of Population Demands Considered*), by James Madison. See the collection of the Federalist Papers at the Library of Congress Website at http://thomas.loc.gov/home/histdox/fed__58.html.

While the Constitution assigns the principal role in Federal budgeting to Congress, it does not, for the most part, prescribe the procedures it should follow in exercising this role. Section 7 provides that “All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.” Section 8 places a 2-year limit on the duration of certain military funding. Otherwise, the Constitution does not address how the House and Senate should organize themselves, or the procedures they should follow, for the consideration of budgetary legislation. Furthermore, the Constitution allows each Chamber to develop its own rules and procedures; Section 5 states in part that “Each House may determine the Rules of its Proceedings”

In the early years of the Nation, the House and Senate approached their budgetary responsibilities in a largely ad hoc fashion, establishing short-lived committees to handle single issues. This was followed by a period in which budgetary responsibilities were concentrated mainly in two standing committees—the Senate Finance Committee, established in 1816, and the House Ways and Means Committee, established in 1802.²

Following the surge in spending and debt levels associated with the Civil War, the House, in 1865, and the Senate, in 1867, each established a standing Appropriations Committee, thus dividing jurisdiction over spending and revenues between two committees in each Chamber (with the Senate Finance and House Ways and Means Committees retaining jurisdiction over revenues).³ During the 1880s, the jurisdiction of the House and Senate Appropriations Committees over Federal spending began to erode, until a sizeable portion was under the control of various legislative committees in each Chamber. This fragmentation of spending jurisdiction continued for several decades until reforms in the early 1920s reconsolidated the Appropriations Committees’ jurisdiction.

The Constitution confers many duties and powers on the President, but it does not explicitly give the President a role in Federal budgeting. Budgetary legislation, of course, like legislation on any other matter, must be presented to the President before it can become law (under Article I, Section 7), and he has the authority to approve or veto it. Among the different duties and powers of

²The historical development of the two committees is discussed in: (1) *History of the Committee on Finance, United States Senate*, S. Doc. 97–5, May 12, 1981, available on the Website of the Senate Finance Committee at <http://finance.senate.gov/history.pdf>; and (2) *The Committee on Ways and Means; a Bicentennial History, 1780–1989*, H. Doc. 100–244, [no date] available on the Website of the Government Printing Office at <http://www.gpoaccess.gov/serialset/cdocuments/100–244/browse.html>.

³The historical development of the two committees is discussed in: (1) *Committee on Appropriations, United States Senate, 138th Anniversary, 1867–2005*, S. Doc. 109–5, 2005; and (2) Congressional Research Service, *The House Appropriations Process, 1789–1993*, by Louis Fisher, CRS Report 93–729 S, Aug. 6, 1993.

the President set forth in Title II, Section 3 provides that “[h]e shall from time to time give the Congress Information of the State of the Union, and recommend to their Consideration such measures as he shall judge necessary and expedient . . .”

The decentralized and fragmented approach to budgeting employed by Congress over the years was mirrored in the executive branch. Agency requests for funds were compiled by the Secretary of the Treasury into a “book of estimates” submitted annually to Congress, but there was little uniformity in the manner in which each agency prepared its requests. The President did not play a formal role in reviewing and coordinating the funding requests, and the funding requests were not considered in relation to requests for revenue.⁴

In 1910, President William H. Taft appointed a Commission on Economy and Efficiency which focused attention on the need for a national budgeting system. Although the Commission’s recommendations were not acted on, they helped to foster reform in the following decade, when concern about the Nation’s fiscal condition spiked in response to the steep rise in spending and debt levels due to World War I and other matters.

Select committees in the House and Senate examined the issue of a national budgeting system in 1919 and 1920, recommending legislation that would require the President to submit an annual budget for the entire Federal Government. President Woodrow Wilson vetoed the legislation in 1920, due to concerns regarding the constitutionality of his removal power over the proposed position of Comptroller General. Modified legislation was signed into law the following year by President Warren G. Harding, as the Budget and Accounting Act of 1921 (42 Stat. 20 et seq.).

In addition to requiring the President to submit a budget for the Federal Government annually to Congress, the 1921 Act created the Bureau of the Budget (as part of the Treasury Department) to assist with the President’s budgetary role. The Budget Bureau was made part of the Executive Office of the President in 1939, and renamed the Office of Management and Budget in 1970. The 1921 Act also created the General Accounting Office (later renamed the Government Accountability Office in 2004), headed by the Comptroller General.

⁴ The early budget practices of the executive branch are summarized in Kimmel, Lewis H., *Federal Budget and Fiscal Policy, 1789–1958* (The Brookings Institution: Washington, DC), 1959.

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The Federal budgeting system created by the Budget and Accounting Act of 1921 continued in place for several decades without fundamental change. The 1921 Act was revised on occasion, perhaps most notably by the Budget and Accounting Procedures Act of 1950 (64 Stat. 2317 et seq.). The changes to the 1921 Act were given impetus, in part, by the reports of the first and second Hoover Commissions in 1949 and 1955, respectively. Although the changes expanded and refined Presidential authority and responsibilities in the area of budgeting, they did not alter the basic purpose and scope of the 1921 Act.⁵

Prelude to the 1974 Reform

The period from the end of World War II until the early 1970s was one in which Congress examined and reexamined its organization and procedures for budgeting. Although several different approaches to reform were tried (see table 1), they generally did not prove to be workable or durable.

TABLE 1.—PRE-1974 REFORM EFFORTS

-
- Legislative budgets of 1947, 1948, and 1949 under the Legislative Reorganization Act of 1946
 - The Employment Act of 1946, which established the Joint Economic Committee
 - The Omnibus Appropriations Act of 1950
 - The President's Commission on Budget Concepts (1967)
 - Statutory spending limits and reductions (1967–1972)
 - Joint Study Committee on Budget Control (1972–1973)
-

The first major congressional reform of the post-World War II era was the Legislative Reorganization Act of 1946. The Act fundamentally restructured and modernized the committee system, among other things, scaling back the number of committees in both the House and Senate and boosting committee staff resources. One provision in the Act was aimed at establishing, for the first time, a requirement that the House and Senate agree to an overall budget plan early in the session to guide the subsequent consideration of budgetary legislation. Section 138 of the Act (60 Stat. 812) created a Joint Committee on the Legislative Budget, consisting of Members appointed from the House and Senate Appropriations Committee, the House Ways and Means Committee, and the Senate Finance Committee. The charter of the joint committee was to examine the President's budget at the beginning of each

⁵ The Federal budget process, as it existed in the middle of the 20th century, is described in: Smithies, Arthur. *The Budgetary Process in the United States*. McGraw-Hill (New York: 1955).

session and to report by February 15 of each year a legislative budget, including estimates of total spending and revenues.

The first attempt to implement a legislative budget, in 1947, failed when the House and Senate could not reach agreement on the legislation. In 1948, the two Chambers agreed on a budget but then exceeded it. Finally, in 1949, the House and Senate again failed to agree on a legislative budget, despite extending the reporting deadline from February 15 to May 1. The legislative budget required by Section 138 was not pursued thereafter, and the section was repealed two decades later by Section 242 of the Legislative Reorganization Act of 1970.

Many factors have been cited for the failure of the legislative budget in the late 1940s. In addition to its attempted implementation in a difficult political climate with sharp disagreement over budget policies, the legislative budget failed because the joint committee was hampered by an unrealistically tight timetable in which to complete its actions, a lack of useful budgetary information, insufficient staff resources, and its unwieldy size (at about 100 members).

Another budgetary reform in 1946 was the enactment of the Employment Act of 1946. The Act recognized the important role the Federal Government plays in promoting economic growth and stabilization. The Act created the Joint Economic Committee to assist Congress in this role.

In 1950, the House and Senate undertook a one-time experiment in improving legislative efficiency by considering all of the regular appropriation acts for FY1951 in a single bill.⁶ Advocates of this approach had attempted for several years to mandate it through legislative action. On September 27, 1949, the Senate adopted a resolution providing for an omnibus appropriations procedure, S. Con. Res. 18, but the House did not take comparable action. Instead, the House and Senate Appropriations Committees decided that during the next session they would combine the regular appropriations acts for FY1951 into a single measure. The two committees were able to accomplish this result without any changes in rules, but simply by exercising their own authority to determine the number of appropriation measures.

After lengthy consideration, the House and Senate completed action on the measure, which was signed into law on September 6, 1950 (more than 2 months after the fiscal year had begun) as the Omnibus Appropriations Act of 1950 (81st Congress, P.L. 759). Although some aspects of the experience were viewed favorably, the House and Senate did not pass the legislation with any

⁶See "The Omnibus Appropriations Act of 1950," by Dalmus H. Nelson, *Journal of Politics*, vol. 15, no. 2, May 1953.

less time or effort than it took to pass appropriation acts individually in other years. Further, by virtue of being packaged into an omnibus measure, the enactment of some of the appropriation measures was delayed considerably compared to the usual practice.

The following year, the House and Senate returned to the practice of considering the regular appropriation acts individually. Congressional action on omnibus appropriation acts would not recur for several decades.

One enduring achievement in the area of budget reform during this period was the President's Commission on Budget Concepts, appointed by President Lyndon B. Johnson in 1967. The membership of the commission was diverse, including Members of Congress (the chairmen and ranking members of the House and Senate Appropriations Committees), the Secretary of the Treasury (Henry H. Fowler), the OMB Director (Charles L. Schultze), the Comptroller General (Elmer B. Staats), and representatives of the private sector and academia. The commission was chaired by David M. Kennedy, chairman of the board, Continental Illinois National Bank and Trust Company of Chicago.

In its report later that year, the Commission set forth an overarching framework of budget concepts that largely underpins the budget process in use today.⁷ One of the most important recommendations of the commission centered on ending the use of multiple budget presentations, including the administrative budget, the consolidated cash budget, and the Federal sector of the national income accounts. Each of the three approaches to budget presentation had been criticized for deficiencies or drawbacks that impaired sound policymaking, and the Commission recommended replacing them with the "unified budget." Under the unified budget, all Federal funds and trust funds of the government are melded together into a single document, thereby improving the understanding of the scope of the Federal budget and analysis of the budget's impact on, and interaction with, the economy.

During the late 1960s and early 1970s, a deteriorating budget picture led to clashes between Congress and the President. Toward the end of the Johnson administration, budgetary strains were created by the rising costs of the war in Vietnam, increased spending for the Great Society programs, and a Presidential request for a surtax, among other factors. The budgetary strains continued into the administration of President Richard M. Nixon, who clashed repeatedly with Congress over budget priorities.

⁷ President's Commission on Budget Concepts. *Report of the President's Commission on Budget Concepts*. U.S. Govt. Printing Office. (Washington: October 1967). Reprinted in 1987.

REPORT of the PRESIDENT'S COMMISSION on BUDGET CONCEPTS

LETTER OF TRANS.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: Your Commission on Budget with our recommendations on what we believe progressive budget presentation for the Federal Government. The present Federal budget is in most essential Commission has gained new and deep respect for ness and for the ability and devotion to duty of in its preparation.

But we find that some improvements definitely budget presentation more responsive to the many particularly, we believe there is a need for certain in classification that will enhance public and congressional of the budget and will increase its usefulness for public policy determination, and financial planning.

In making these recommendations, the Commission broad authority granted to the President by the Budget Act of 1921 to determine the precise form in which to the Congress. We urge that work begin immediately necessary information and data so that those recommendations your approval can be introduced into the budget at the moment. We hope that many of these changes can be budget document which you will January—although we recom-

Letter of Transmittal

the budget document an even more useful tool for decision-making in our democracy and a more readily understood instrument of government.

Respectfully,

DAVID M. KENNEDY,
Chairman

ROBERT B. ANDERSON
FRANK T. BOW
HENRY H. FOWLER
CARL HAYDEN
WINTHROP C. LENZ
GEORGE H. MAHON
PAUL W. MCCrackEN
CHARLES L. SCHULTZ
CARL S. SHOUP
LEONARD S. SILK
ELMER B. STAATS
ROBERT M. TRUEBLOOD
ROBERT C. TURNER
THEODORE O. YNTEMA
MILTON R. YOUNG

OCTOBER 10, 1967.

Convened by President Lyndon Johnson, this commission, tasked with studying ways to modernize the Federal budget process, recommended creating a unified budget system to enhance congressional and public understanding of the Federal budget and provide a more useful instrument of public and financial policy.

From 1967 through 1972, Congress acted five times on proposals to limit or reduce Federal spending.⁸ These proposals involved spending reductions included in a continuing appropriations act (1967), spending limits combined with tax legislation (1968), spending limits included in supplemental appropriations acts (1969 and 1970), and spending limits included in a measure increasing the limit on the public debt (1972).

The ad hoc nature of congressional actions to deal with spending control and other budgetary issues highlighted the inadequacy of House and Senate procedures for making budget policy. In order to resolve the many problems in budget process that beset the House and Senate during this period, the two Chambers included a provision in one of the last measures approved by the 92nd Congress intended to lead to reform in the following Congress. A bill temporarily increasing the public debt by \$65 billion and providing for a 1-day limit of \$250 billion on spending, H.R. 16810 was signed into law by President Nixon on October 27, 1972, as P.L. 92-599 (86 Stat. 1324-1326). Section 301 of the Act established a joint committee which came to be known as the Joint Study Committee on Budget Control.

The Joint Study Committee on Budget Control consisted of 32 members, 16 from each Chamber, appointed by the Speaker of the House and the President pro tempore of the Senate. Seven House Members and seven Senate Members were appointed from the Appropriations Committees, the same number were appointed from the House Ways and Means and Senate Finance Committees, and two additional Members from each Chamber were appointed. The main task of the Joint Study Committee, as set forth in Section 301(b) of P.L. 92-599, was to report by February 15, 1973 on a:

. . . full study and review of . . . the procedures which should be adopted by the Congress for the purpose of improving congressional control of budgetary outlay and receipt totals, including procedures for establishing and maintaining an overall view of each year's budgetary outlays which is fully coordinated with an overall view of the anticipated revenues for that year. . . ."

The Congressional Budget and Impoundment Control Act of 1974

In 1973 and 1974, during the 93rd Congress, the House and Senate finally brought the issue of comprehensive budget process reform to a successful conclusion. During this period, the House

⁸ Congressional actions in this regard are discussed in detail in: Schick, Allen, *Congress and Money*. The Urban Institute (Washington: 1980). See Chapter II (The Seven-Year Budget War: 1966-73), pp. 17-49. The five laws involved were: (1) P.L. 90-218; (2) P.L. 90-364; (3) P.L. 91-47; (4) P.L. 91-305; and (5) P.L. 92-599.

and Senate pursued several broad-scale reforms that encompassed fundamental issues in executive-legislative relations and the separation of powers. Among other things, congressional actions dealt with war powers as the war in Vietnam drew to a close; focused on intelligence oversight in the wake of disclosures of domestic spying and other abuses; and pursued charges of corruption in the Nixon administration and impeachment following revelations stemming from Watergate.

With regard to budget process reform, Congress faced many different issues. Congressional actions in the preceding years had clearly demonstrated that it lacked an effective means of determining budget priorities and coordinating revenue and spending policies, both in terms of a legislative vehicle and committee structure. The deficiencies in procedure and structure contributed, in the view of many, to undesirable budget outcomes, such as persistent and growing deficits, excessive spending and a growing portion of outlays considered to be “relatively uncontrollable,” and an undue reliance upon the executive for budgetary information and analysis. Undesirable procedural outcomes were attributed to these deficiencies as well, including delays in the annual appropriations process, leading to funding gaps and excessive reliance on continuing appropriations acts.

During his 1972 reelection campaign, in his FY1973 budget submission to Congress, and in other venues, President Nixon criticized the House and Senate for shortcomings in budget procedure. Their “hoary and traditional” procedures, he argued, impaired the enactment of sound budgetary policies.

Another major concern centered around the large-scale impoundment of funds by the Nixon administration. In addition to the number and size of the Nixon impoundments, which in 1973 reached about \$18 billion (far more than any previous President had impounded) and represented a sizeable share of the approximately \$170 billion in appropriations enacted annually at that time, Congress was concerned that the purpose of most of the impoundments was to overturn congressional priorities established in appropriations acts, thereby undermining its power of the purse.

The Joint Study Committee, created at the end of the 1972 session, was cochaired by Representative Jamie L. Whitten (chairman of the House Appropriations Committee) and Representative Al Ullman (chairman of the House Ways and Means Committee). The Joint Study Committee held eight hearings between January 18

and March 15, 1973. On February 7, 1973, the Joint Study Committee issued an interim report, and, on April 18, 1973, it issued a final report.⁹

In its final report, the Joint Study Committee drew special attention to Congress's difficulty in controlling the deficit. The Joint Study Committee concluded that "the failure to arrive at congressional budget decisions on an overall basis has been a contributory factor in this picture." Further, the Joint Study Committee noted:

The fact that no committee has the responsibility to decide whether or not total outlays are appropriate in view of the current situation appears to be responsible for much of the problem. Perhaps still more critical for the process is the distribution of jurisdiction over components of the budget among several different congressional committees. As a result, each spending bill tends to be considered by Congress as a separate entity, and any assessment of relative priorities among spending programs for the most part is made solely within the context of the bill before Congress.¹⁰

The Joint Study Committee recommended the establishment of a 21-member Budget Committee in the House and a 15-member Budget Committee in the Senate. One-third of each Committee's members would be appointed from the Appropriations Committee in that Chamber, one-third from the revenue committees (House Ways and Means and Senate Finance), and one-third from the House and Senate at large, with the chairmanships of each Budget Committee alternating between the appropriations and revenue committees.

As proposed by the Joint Study Committee, the House and Senate Budget Committees would be responsible for developing and reporting an annual concurrent resolution on the budget, to be adopted by May 1 of each year, setting forth limitations on spending, revenues, the surplus or deficit, and debt. In conducting their activities, the House and Senate Budget Committees would be served by a joint staff, dedicated almost exclusively to supporting the two Committees. Floor consideration of the budget resolution would take place under procedures that in effect would significantly restrict a Member's ability to offer amendments.

The recommendations of the Joint Study Committee were embodied in identical legislation introduced in each Chamber, H.R. 7130 and S. 1641 (see table 2). While H.R. 7130 became the

⁹See the reports of the Joint Study Committee on Budget Control: (1) *Improving Congressional Control Over Budgetary Outlay and Receipt Totals; Interim Report*, H. Rept. 93-13, Feb. 7, 1973; and (2) *Recommendations for Improving Congressional Control Over Budgetary Outlay and Receipt Totals*, H. Rept. 93-147, Apr. 18, 1973.

¹⁰Joint Study Committee, H. Rept. 93-147, *ibid.*, p. 1.

RECOMMENDATIONS FOR IMPROVING CONGRESSIONAL CONTROL OVER BUDGETARY OUTLAY AND RECEIPT TOTALS

REPORT OF THE STUDY COMMITTEE ON BUDGET CONTROL



APRIL 18, 1973

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(11)

The final report of this bicameral committee, formed in 1972, recommended the formation of committees on the budget in both the House and Senate for budget review and provided a framework for what would become the Congressional Budget and Impoundment Control Act of 1974.

principal vehicle for budget process reform in the House, the main vehicle in the Senate was S. 1541, a budget process reform measure introduced on April 11, 1973 (a week before the Joint Study Committee issued its final report) by Senator Sam Ervin, the chairman of the Senate Government Operations Committee. In addi-

tion, the House and Senate passed separate impoundment control legislation in 1973 (H.R. 8480 and S. 373, respectively), before the issue was merged into budget process reform legislation in 1974.

TABLE 2.—LEGISLATIVE HISTORY OF THE 1974 ACT

-
- House Rules Committee reported H.R. 7130 by a vote of 15 to 0 (H. Rept. 93–658, November 20, 1973)
 - House considered H.R. 7130 on December 4 and 5, 1973, passing it by a vote of 386 to 23
 - Senate Government Operations Committee reported S. 1541 by a vote of 10 to 0 (S. Rept. 93–579, November 28, 1973)
 - Senate Rules and Administration Committee reported S. 1541 by a vote of 9 to 0 (S. Rept. 93–688, March 6, 1974)
 - Senate considered S. 1541 on March 19–22, 1974, passing it by a vote of 80 to 0
 - Conference agreement on H.R. 7130 reported (H. Rept. 93–1101, June 11, 1974, and S. Rept. 93–924, June 12, 1974)
 - House agreed to conference report on June 18, 1974, by a vote of 401 to 6, and Senate agreed to it on June 21, by a vote of 75 to 0
 - President Richard Nixon signed H.R. 7130 into law on July 12, 1974, as P.L. 93–344
-

In the House, H.R. 7130 was referred to the House Rules Committee, which was chaired by Representative Ray J. Madden. Between July 19 and September 20, 1973, the Rules Committee held 7 hearings on H.R. 7130 and other budget process reform legislation, receiving testimony from more than 20 witnesses. During markup of H.R. 7130 in November, many modifications were made to the bill. On November 13, the Rules Committee voted unanimously (15 to 0) to report the bill with an amendment in the nature of a substitute. The Committee’s report (H. Rept. 93–658) was printed on November 20, 1973.

For the most part, the House Rules Committee’s recommendations corresponded with those made by the Joint Study Committee, but with several significant changes. Rather than a single budget resolution each year, the House and Senate would adopt a spring budget resolution (by May 1) setting targets and a fall budget resolution that would be binding. The House Budget Committee would consist of 23 members, with 10 members selected from the House Appropriations and Ways and Means Committees, 2 from the party leadership, and 11 members at large. Thus, the Rules Committee recommended both a slightly larger Budget Committee and one more representative of the House as a whole. A Legislative Budget Office would serve as a joint staff to the two Budget Committees, but would serve other congressional offices as well. The start of the fiscal year would be switched

from July 1 to October 1 of each year, to allow more time for Congress to complete action on budgetary legislation. Finally, the Rules Committee added the issue of impoundment control, incorporating into H.R. 7130 the provisions of H.R. 8480, with modifications, which the House had passed earlier in the year, on July 25.

In the Senate, S. 1541 was referred to the Senate Government Operations Committee on April 11, 1973. The Committee referred budget process reform legislation to a newly created subcommittee chaired by Senator Lee Metcalf, the Subcommittee on Budgeting, Management, and Expenditures. On April 2, 1973, the Subcommittee held its first hearing, receiving testimony on nine Senate bills pertaining to budget process reform that had been referred to the Subcommittee at that point. Additional measures, including S. 1541, were referred to the Subcommittee as the session progressed. The Subcommittee held 7 additional hearings through August, receiving testimony from more than 30 witnesses, before reporting the measure to the Full Committee by a 5 to 4 vote.

The Senate Government Operations Committee considered S. 1541 in October and November of 1973, and ordered the bill, as amended with an amendment in the nature of a substitute, reported on November 8 by a unanimous vote of 10 to 0 (four other Committee members voted yea by proxy and the remaining two Committee members did not vote). The Committee's report on S. 1541 (S. Rept. 93-579) was filed on November 20 and printed on November 28.

In view of the significant changes that S. 1541 proposed to make to the standing rules of the Senate, the bill was referred to the Senate Rules and Administration Committee on November 30, with instructions to report it by February 25, 1974. The bill was referred to the Subcommittee on the Standing Rules of the Senate, chaired by Senator Robert C. Byrd. The Subcommittee held a hearing on the bill on January 15, 1974.

After the hearing, Senators Sam Ervin and Charles Percy, chairman and ranking member, respectively, of the Government Operations Committee, suggested that the Rules and Administration Committee provide a forum for all interested parties to review the bill. A staff working group was convened by the Rules and Administration Committee, representing 10 Senate standing committees, 4 joint committees, the House Appropriations Committee, the Congressional Research Service, and the Office of Senate Legislative Counsel. Over the course of 16 days, the working group met for about 90 hours in 25 sessions. Their efforts resulted in significant changes in the bill. On February 20, 1974, the Rules and Administration Committee adopted the changes, with some further

modifications, in the form of an amendment in the nature of a substitute. The Committee's report on S. 1541 (S. Rept. 93-688) was filed on February 21, 1974, and printed on March 6.

The true father of the budget process is neither Senator Muskie nor Senator Ervin, both of whom wrote the original bill, but Senator Robert Byrd, who was chairman of the Rules Committee at that time and looked at the bill that the Governmental Affairs Committee reported and said, "This won't work." He took it and rewrote it in the form it became law. He was instrumental both as whip and later as majority leader because he could have leaned against us and probably eviscerated the Committee, but he didn't. He stood with us, and as a result, the process became as established as it did.¹¹

—John McEvoy, Senate Budget Committee Staff Director, 1977–1980

The consensus measure recommended by the Senate Rules and Administration Committee generally maintained a correspondence with the House on many key issues, but with some significant differences. The Committee's recommendations envisioned two budget resolutions each year; the first (to be adopted by June 1) would establish targets for spending, revenues, the surplus or deficit, and debt, and the second (to be adopted in the fall) would be binding. A Congressional Office on the Budget would serve the Budget Committees and other congressional offices as well, but unlike the House, the Senate did not envision it serving as a joint staff for the Budget Committees. Instead, the Senate expected that each Budget Committee would have its own staff, as in the case of other House and Senate committees. A 15-member Senate Budget Committee would be established, as originally proposed. The Committee's recommendations did not encompass impoundment controls generally, but an amendment to the Antideficiency Act was included that more clearly restricted the President's authority to withhold funds.

The House began initial consideration of H.R. 7130 on December 4, 1973, after adopting a special rule (H. Res. 715) providing for the bill's consideration. The next day, December 5, the House passed H.R. 7130 by a vote of 386 to 23. The House-passed bill reflected the Rules Committee's amendment in the nature of a substitute, as amended by two relatively minor amendments. Nine other amendments to the Committee's substitute were rejected.

The Senate considered S. 1541 from March 19 through March 22, 1974. On the first day of consideration, the Senate agreed to the amendment in the nature of a substitute proposed by the Rules and Administration Committee, which was subject to fur-

¹¹ Transcript, John McEvoy interview, August 21, 2006, U.S. Senate Historical Office.

ther amendment, and a series of technical and conforming amendments offered by Senator Ervin. During the ensuing 3 days, 19 other amendments were adopted and 8 were rejected. On March 22, the Senate passed the House bill, H.R. 7130, after striking out the House-passed text and inserting in lieu thereof the provisions of S. 1541 as amended. The vote on final passage was 80 to 0.

Conferees met on H.R. 7130 as passed by the House and the Senate amendment thereto, reached a compromise, and, on June 5, 1974, agreed to file a conference report. The conference report was printed on June 11 (as H. Rept. 93-1101) and on June 12 (as S. Rept. 93-924). On June 18, the House agreed to the conference report, by a vote of 401 to 6, clearing the measure for the Senate. The Senate agreed to the conference report, by a vote of 75 to 0, on June 21, clearing the measure for the President. President Nixon signed the bill into law, as the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), on July 12, 1974.¹²

During Senate consideration of the conference report, several Senators with long service in the Chamber commented on the special importance of the legislation. Senator Sam Ervin, for example, noted:

To my mind, this is the most important piece of legislation that I have worked on during the 20 years that I have served in the Senate. It is the finest example of the legislative process at work that I have ever witnessed.¹³

Senator Charles Percy commented on the extraordinary efforts involved in the enactment of the 1974 Act:

. . . when we set our minds to do something, we really can accomplish something that is in the national interest, and that certainly will serve the interests of every taxpayer and citizen in the country. . . . For such a bill to be passed within a single Congress is a tribute to the dedication to which Senators and Representatives have approached this very difficult task.¹⁴

Senator Lee Metcalf placed the challenge presented by the 1974 Act within the context of previous reform efforts:

That challenge—stated plainly—was to find a mechanism by which 535 Members of Congress could determine an appropriate budget for the Nation and conduct their legislative business within it. Since 1921, attempts have been made by Congress to meet this challenge. All have failed for a variety of reasons, not the least of which were political. The result has been increasing control over fiscal policy by the executive branch, not provided in, nor even contemplated by, the Constitution.

¹² See the statement of President Nixon on the Act in the *Weekly Compilation of Presidential Documents*, vol. 10, no. 28, July 12, 1974.

¹³ The remarks of Senator Sam Ervin in the *Congressional Record* of June 21, 1974, as reprinted in: U.S. Congress. Senate. Committee on Government Operations. *Congressional Budget and Impoundment Control Act of 1974; Legislative History*. Committee print (93rd Cong., 2nd sess.). December 1974, pp. 1989-1990.

¹⁴ Committee on Government Operations, *ibid.*, pp. 2018-2019.

The mechanism created by this legislation is more comprehensive, more dynamic, than anything previously considered. It is framed within the traditions and procedures of Congress, but at the same time it provides a new set of rules which, if followed, will work.¹⁵

The 1974 Act is a lengthy and complex measure, consisting of 10 titles. The first nine titles of the Act are referred to as the Congressional Budget Act of 1974; the last title, Title X, is referred to as the Impoundment Control Act of 1974. Section 2 provides a declaration of purposes for the entire Act:

Sec. 2. The Congress declares that it is essential—

- (1) to assure effective congressional control over the budgetary process;
- (2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;
- (3) to provide a system of impoundment control;
- (4) to establish national budget priorities; and
- (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

As enacted in 1974, Title I of the Act provided for a 23-member House Budget Committee and a 15-member Senate Budget Committee, with responsibility principally to develop and enforce annual budget resolutions.

Title II of the Act created the Congressional Budget Office (CBO), headed by a director appointed to a 4-year term, to provide Congress with budgetary information and analysis prepared on an independent, nonpartisan basis. The Act established a hierarchy regarding CBO's duties and functions in which its primary responsibility is to assist the House and Senate Budget Committees, followed by the appropriations and revenue committees, followed by other committees and Members.

Title III set forth the timetable and procedures of the congressional budget process, including the requirement that an advisory budget resolution be adopted by May 15, and a binding budget resolution be adopted by September 15, and set forth reconciliation procedures to be used, if needed, in conjunction with the second budget resolution. Further, Title III specified the required contents of budget resolutions, including the total levels of spending, revenues, the surplus or deficit, and debt, a breakdown of spending by major functional categories, and provided for optional procedures and matters to be included, as appropriate. A provision also allowed for additional budget resolutions, if necessary.

Title IV imposed new controls on entitlement legislation, as well as legislation involving contract authority and borrowing authority. Additionally, the title established May 15 as a reporting deadline for authorizing legislation.

¹⁵ Committee on Government Operations, *ibid.*, pp. 2002–2004.

Title V changed the start of the fiscal year from July 1 to October 1 and provided for a 3-month transition quarter (July 1–September 30, 1976) to implement the change.

Titles VI through IX made various changes in the budget process, including changes affecting the President’s budget, the conduct of program evaluation by the Comptroller General, the availability of budgetary information to Congress, and technical and conforming matters.

Title X established new procedures for impoundment control, defining impoundments as either rescissions or deferrals, requiring the submission of Presidential impoundment messages, setting forth House and Senate procedures for the expedited consideration of legislation dealing with rescission and deferral proposals, and imposing on the Comptroller General responsibilities for monitoring executive impoundments and reporting to Congress.

The Senate Budget Committee was established shortly after the enactment of the 1974 Act. On July 25, 1974, the Senate adopted S. Res. 367, without objection, appointing nine Democratic members, and on August 7, the Senate adopted S. Res. 378, without objection, appointing six Republican members. Senator Edmund S. Muskie was chosen to be the chairman and Senator Peter H. Dominick was chosen to be the ranking member. (Senator Dominick lost his bid for reelection in 1974 and was replaced in that position in 1975 by Senator Henry Bellmon.)

By any standard, the first Members of the Senate Budget Committee (see table 3) were an exceptional group, and several of them later served in other important elective or appointive positions. The chairman, Senator Edmund S. Muskie, served as Secretary of State under President Jimmy Carter, while Senator Walter F. Mondale served as Vice President to President Carter. Senators Er-

TABLE 3.—FIRST MEMBERS OF THE SENATE BUDGET COMMITTEE (93RD CONGRESS, 2ND SESSION, 1974)

(Democrats in *italic*; Republicans in roman)

<i>Edmund S. Muskie</i> , Chairman	Peter H. Dominick, Ranking Member
<i>Warren G. Magnuson</i>	Milton R. Young
<i>Frank E. Moss</i>	Roman L. Hruska
<i>Walter F. Mondale</i>	Jacob K. Javits
<i>Ernest F. Hollings</i>	Paul J. Fannin
<i>Alan Cranston</i>	Robert J. Dole
<i>Lawton Chiles</i>	
<i>James G. Abourezk</i>	
<i>Joseph R. Biden, Jr.</i>	

nest F. Hollings and Lawton Chiles each later served as chairman (and ranking member) of the Budget Committee. Senator Peter H. Dominick was appointed Ambassador to Switzerland by President Gerald Ford and Senator Robert J. Dole twice held the position of Senate majority leader.

The first organizational meeting of the new Committee was held on August 13, 1974. Although the Committee did not begin its legislative functions until the following year, it held a series of hearings beginning on August 14 on the impact of the Federal budget on inflation. (See the Appendix for opening statements from the Committee's first hearing.) A funding resolution to cover the initial expenses of the Budget Committee through February 28, 1975, S. Res. 406, was agreed to by the Senate on October 10.

The House Budget Committee also was established soon after the enactment of the 1974 Act. In August 1974, Representative Al Ullman was chosen to be the chairman, but he stepped down from the position a few months later to accept the chairmanship of the House Ways and Means Committee and was succeeded as chairman by Representative Brock Adams.

As provided for in Section 905(b) (88 Stat. 331) of the 1974 Act, the Congressional Budget Office officially came into existence on the day that the first CBO Director was appointed. This occurred on February 24, 1975, with the appointment of Alice Rivlin.

The First Decade: From “Dry Run” to Reconciliation

The first decade of the congressional budget process, covering the 94th Congress through the 98th Congress (1975–1984), was marked by many significant developments, including the maturation of the process from tentative and uncertain beginnings into an established routine of the House and Senate, the increased reliance on the new process to deal with mounting challenges in Federal budget policy, and procedural innovation that sometimes was dramatic.

At the beginning of the 94th Congress, in 1975, the Senate Budget Committee began to carry out its legislative functions. Senator Edmund S. Muskie, the first chairman, served in that capacity for more than 5 years, stepping aside in May 1980 to serve as Secretary of State under President Jimmy Carter. He was succeeded as chairman by Senator Ernest F. Hollings. Senator Henry Bellmon became the ranking member of the Committee at the beginning of the 94th Congress, and continued to serve in that position through 1980 (see table 4).

Milestones In The Development Of The Federal Budget Process¹

- 1789 **Constitution, Article I, Section 7**
Requires revenue bills to originate-in the House. (By custom, appropriations measures also originate in the House.)
- 1789 **Constitution, Article I, Section 9**
Requires the enactment of appropriations before expenditure, and a public statement of receipts and expenditures.
- 1802-1867 **House and Senate Rules**
House Ways and Means Committee established as a standing committee in 1802; House Appropriations Committee established in 1865. Senate Finance Committee established in 1816; Senate Appropriations Committee established in 1867.
- 1837 **House Rule XXI**
Bar against unauthorized appropriations and bar against appropriations in legislation.
- 1850 **Senate Rule XVI**
Bar against unauthorized appropriations.
- 1870,
1905-1906 **Antideficiency Act**
Requires apportionment of funds to prevent over-expenditure. Amended in 1950 to permit budgetary reserves and in 1974 to restrict such reserves.
- 1921 **Budget and Accounting Act of 1921**
Provides for an executive budget system; established the Bureau of the Budget and the General Accounting Office.
- 1939 **Reorganization Plan No.1 (Executive Order 8248)**
Transferred the Bureau of the Budget from the Department of the Treasury to the Executive Office of the President and expanded the Bureau's role.
- 1946 **Employment Act of 1946**
Requires the President to submit an annual economic report to Congress; established the Council of Economic Advisers.
- 1946 **Legislative Reorganization Act of 1946**
Provided for a legislative budget, which was abandoned after several years.

¹ This list of milestones through 1990 is taken from CRS Report 91-902 GOV, *Manual on the Federal Budget Process*, by Allen Schick, Robert Keith, and Edward Davis (all three have left CRS), pp. 202-204. Milestones after 1990 were added by current staff at CRS.

- 1950 **Budget and Accounting Procedures Act of 1950**
Established requirements for budgeting; accounting, financial reporting, and auditing.
- 1967 **President's Commission on Budget Concepts**
Adoption of the unified budget.
- 1970 **Legislative Reorganization Act of 1970**
Provided for 5-year budget projections and expanded the role of GAO in program evaluation.
- 1970 **Reorganization Plan No.2 (Executive Order 11541)**
The Bureau of the Budget was renamed the Office of Management and Budget.
- 1974 **Congressional Budget and Impoundment Control Act of 1974**
Established the congressional budget process, House and Senate Budget Committees, and the Congressional Budget Office. Also, established procedures for legislative review of proposed rescissions and deferrals.
- 1980 **Reconciliation Process**
Reconciliation process used for the first time as part of the first budget resolution.
- 1982 **Federal Managers' Financial Integrity Act**
Required ongoing evaluations and reports on each agency's system of internal control so as to provide reasonable assurance that obligations and costs are in compliance with law, revenue and expenditures are properly recorded, and assets are safeguarded against waste, loss, or unauthorized use.
- 1985 **Balanced Budget and Emergency Deficit Control Act of 1985**
Established deficit-reduction goals and procedures (sequestration) aimed at balancing the budget by fiscal year 1991. Also, made extensive amendments in the Congressional Budget Act of 1974.
- 1987 **Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987**
Revised the sequestration process, extending the goal of a balanced budget until fiscal year 1993 and requiring that the OMB Director determine if a sequester is necessary.

- 1990 **Budget Enforcement Act of 1990**
Revised the sequestration process, abandoning fixed deficit targets in favor of adjustable targets and establishing two new procedures: discretionary spending limits, which cap annual appropriations, and pay-as-you-go, which requires that action on spending outside of the annual appropriations process and on revenue legislation not increase the deficit. Includes the Federal Credit Reform Act of 1990, which establishes new budgeting and accounting rules for direct loans and loan guarantees.
- 1990 **Chief Financial Officers Act**
Required appointment of Chief Financial Officer in 23 major Federal agencies to oversee financial management activities, develop and maintain an integrated agency accounting and financial reporting system, and monitor the execution of the budget.
- 1996 **Line Item Veto Act of 1996**
Authorized the President to cancel discretionary spending in appropriation acts, as well as new direct spending and limited tax benefits in other legislation, subject to expedited legislative procedures by which Congress could overturn the cancellations. The Supreme Court ruled the Line Item Veto Act unconstitutional in June 1998.
- 2010 **Statutory Pay-As-You-Go Act of 2010**
Restored a modified version of the statutory pay-as-you-go rule, first established in 1990, which requires legislation affecting direct spending and revenues not increase the deficit over 5- and 10-year periods.
- 2011 **Budget Control Act of 2011**
Established statutory limits on discretionary spending for each fiscal year covering FY2012-FY2021, and restored a sequestration process to enforce those limits. The BCA also established a Joint Select Committee on Deficit Reduction with the goal of reducing the deficit by \$1.5 trillion over the period covering FY2012-FY2021, and an automatic spending reduction process, if a proposal by the Joint Committee that reduced the deficit by at least \$1.2 trillion is not enacted by the beginning of 2012.



The Budget Control Act of 2011

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Summary

The Budget Control Act (BCA) is the result of negotiations between the President and Congress held in response to the federal government having nearly reached its borrowing capacity.

The BCA authorized increases in the debt limit of at least \$2.1 trillion dollars (and up to \$2.4 trillion under certain conditions), subject to a disapproval process that would likely require securing the support of two-thirds of each chamber to prevent a debt limit increase. It established caps on the amount of money that could be spent through the annual appropriations process for the next 10 years, which the Congressional Budget Office (CBO) estimates will reduce federal spending by \$917 billion. The BCA also created a Joint Select Committee on Deficit Reduction that is instructed to develop a bill to reduce the federal deficit by at least another \$1.5 trillion over the 10 year period ending in FY2021.

The legislation resulting from the joint committee recommendations can be considered under special procedures that prevent amendment and limit debate in both chambers. These procedures could have a significant impact in the Senate because they allow the bill to advance with simple majority support; under regular Senate procedures it can be necessary to obtain agreement among at least three-fifths of the Senate (normally 60 Senators) to advance consideration of legislation.

If a joint committee proposal cutting the deficit by at least \$1.2 trillion is not enacted by January 15, 2012, then the BCA established an automatic spending reduction process that includes sequestration (the cancellation of budgetary resources). The process presumably is intended to encourage agreement on deficit reduction, either by enacting the joint committee legislation by early 2012, or possibly by enacting other legislation (presumably through existing congressional procedures) by the beginning of 2013, when the automatic process would make reductions. If the enacted bill cuts the deficit by more than \$1.2 trillion, an additional increase in the debt limit becomes available in the amount of the excess, up to \$0.3 trillion.

The Budget Control Act has two additional elements. First, it directs that the House and Senate must each vote on a proposal to amend the Constitution to require that the budget of the federal government be balanced. The BCA does not alter the procedures for taking up such a measure in the Senate, and therefore the Senate might not be able to vote on passage of a constitutional amendment unless the support of 60 Senators can be secured to begin consideration. The only procedural consequence of not voting specified in the BCA is that, if Congress does not *approve* a constitutional amendment, the second of two conditions under which the act would permit an additional increase of \$0.3 trillion in the debt ceiling, will not be available.

Second, the BCA also makes changes to the William D. Ford Federal Direct Loan (DL) program and the Federal Pell Grant program, two federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329). Effective July 1, 2012, the BCA eliminates the availability of Subsidized Stafford Loans to graduate and professional students and eliminates all but one type of repayment incentives on future DL program loans. CBO estimates these changes would reduce direct spending by \$21.6 billion over the FY2012-FY2021 period. Approximately \$17 billion of the \$21.6 billion in estimated savings from the changes in the DL program would be directed to the Pell Grant program for future general use in FY2012 and FY2013.

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Introduction

The President signed the Budget Control Act of 2011 (BCA; P.L. 112-25) on August 2, 2011. The new law contains multiple interrelated components, several of which establish procedures that will affect the consideration of subsequent legislation.

This report begins with a brief overview of the essential features of the Budget Control Act, taking a broad view of the connections between its different components and introducing readers to some fundamental concepts and terminology. The subsequent sections of this report provide more detailed information on each component of the BCA, with the goal of providing information to assist Members and staff as they apply these new procedures. (The appendices contain tools for those quickly seeking specific information: a list of short answers to “frequently asked questions” and tables identifying the various dates for action in relation to the bill to be proposed by the Joint Select Committee on Deficit Reduction and the resolutions disapproving the debt limit increase.)

The explanations of the procedures established in the BCA are based on a reading of the new law and an understanding of how similar procedures operated in the past. Some elements of the Budget Control Act of 2011, like all laws, will be subject to interpretation. Ultimately it is the House and Senate that will decide on the specific operation of the legislative procedures. For advice on the implementation of these procedures, congressional Members and staff will be best advised to consult with the Parliamentarian of their chamber. If an automatic spending reduction process is triggered, its actual execution will depend in large part on the interpretations and actions of the Office of Management and Budget (OMB), which might also need to be consulted regarding specific elements of that process.

Brief Overview of Essential Features

Debt Ceiling Increase and Disapproval Process

The Budget Control Act is the result of negotiations between the President and Congress held in response to the federal government having nearly reached its borrowing capacity.¹

The BCA authorized debt limit increases up to at least \$2.1 trillion dollars (and up to \$2.4 trillion under certain conditions) in three installments. The first installment of \$400 billion already occurred when the President submitted a certification, pursuant to the act, that the debt was within \$100 billion of its limit.² Congress can prevent each of the next two installments if it passes a joint resolution disapproving the increase to the debt limit and overrides an expected presidential veto, although this full sequence of actions is widely considered to be unlikely.

¹ For more information, see CRS Report RL31967, *The Debt Limit: History and Recent Increases*, by D. Andrew Austin and Mindy R. Levit; and CRS Report R41633, *Reaching the Debt Limit: Background and Potential Effects on Government Operations*, coordinated by Mindy R. Levit.

² President Obama submitted such certification on August 2, 2011. It is available at <http://www.whitehouse.gov/the-press-office/2011/08/02/message-president-us-congress>.

The initial passage of a resolution disapproving a debt limit increase requires majority support in each chamber; BCA procedures prevent a Senate filibuster that otherwise could delay or prevent its coming to a vote. Presumably, however, the President will veto the disapproval resolution because the Treasury will have advised him that further borrowing is required to meet existing commitments. To override a Presidential veto requires the support of two-thirds of both chambers. Ultimately, therefore, the support of two-thirds of each chamber might be necessary to prevent a debt limit increase.

The House and Senate might consider a resolution disapproving the next increase of \$500 billion to the debt limit sometime in September, which is when the deadline set by the BCA for enacting such a resolution occurs. The debt is next predicted to be within \$100 billion of its limit in early 2012, when the President would submit another certification and Congress might consider another disapproval resolution.

Statutory Discretionary Spending Limits

Reaching agreement on the debt ceiling increase contained in the BCA depended in part on enacting procedures designed to reduce future federal spending. The BCA therefore also established caps on the amount of money that could be spent through the annual appropriations process for the next 10 years, which the Congressional Budget Office estimates will reduce federal spending by \$917 billion.³ The caps established by the BCA may also be adjusted for certain purposes, including, for example, for the costs of the “Global War on Terrorism.”⁴

The adjustable caps are not placed on specific accounts or even on each of the appropriations bills; instead they are broad caps on the total amount of discretionary spending. For the first two fiscal years, the caps are on two categories of spending: security and nonsecurity. For the other years, one limit on all discretionary spending is created. Decisions about how these caps will affect specific agencies or programs will be made by Congress and the President through the regular appropriations process.

Discretionary spending limits are not unique; in current practice, the appropriators generally operate under caps set by Congress in a budget resolution or in another form. But those caps are enforced in the House and Senate, and the House and Senate can each waive them unilaterally. The caps established by the BCA, in contrast, cannot be waived by a single chamber. If the caps are exceeded, the BCA provides for a sequestration process: an automatic, largely across-the-board cancellation of budgetary resources.

Joint Select Committee on Deficit Reduction

Another part of the BCA agreement to increase the debt ceiling was the creation of a Joint Select Committee on Deficit Reduction, instructed to develop legislation to reduce the federal deficit by

³ For information on the projected savings and impact on budget deficit projections resulting from these limits, see Congressional Budget Office, Letter to Honorable John A. Boehner, Speaker, U.S. House of Representatives, and Honorable Harry Reid, majority leader, United States Senate, cost estimate of the Budget Control Act of 2011, as posted on the website of the House Committee on Rules, August 1, 2011.

⁴ Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the BCA, provides for the caps to be adjusted for any discretionary appropriations designated as “for Overseas Contingency Operations/Global War on Terrorism.”

at least another \$1.5 trillion over the 10-year period ending in FY2021. The legislation resulting from the joint committee recommendations can be considered under special procedures that prevent amendment and limit debate in both chambers. These procedures could have a significant impact in the Senate because they allow a simple majority to approve a bill without indefinite delay. Under regular Senate procedures, the support of 60 Senators is often necessary to advance the consideration of legislation.

The joint committee, made up of an equal number of Democrats and Republicans from each chamber, has wide authority to develop a proposal to reduce the federal deficit. No specific policy restrictions or requirements are placed on the joint committee. Under the terms of the BCA it could recommend changes to revenue, spending, or both; it might even propose new budget enforcement mechanisms. For the proposal to be considered under the special, expedited procedures, however, it must be approved by the joint committee by November 23, 2011, and passed by both chambers by December 23, 2011. Given this timeline, perhaps the greatest indirect restriction on the content of the joint committee bill is that it must pass a House controlled by one party and a Senate controlled by another.

Budget Goal Enforcement: Spending Reduction Trigger

Furthermore, if Congress and the President do not enact a joint committee bill reducing the deficit by at least \$1.2 trillion over the period of FY2012 to FY2021, there are potentially undesirable consequences. The failure to enact such a bill into law by January 15, 2012, will trigger an automatic spending reduction process. This process, sometimes referred to as “the trigger,” includes sequestration, or the cancellation of budgetary resources. What it could mean is that if a qualifying joint committee bill is not enacted by January 15, 2012, then on January 2, 2013, the spending authority of many federal departments and agencies will be reduced.

The automatic process for deficit reduction involves several steps and calculations, and for details the reader is referred to the “Budget Goal Enforcement” section of the report below. Very generally, the spending reductions are to be made equally from defense spending and from all other spending (referred to as “nondefense spending”). The reductions required in each of these categories are then divided proportionally between discretionary spending and mandatory spending.

The spending reductions are achieved for direct spending through sequestration each year (FY2013 to FY2021). For discretionary spending, the reductions are achieved through sequestration the first year (FY2013). For the other fiscal years (FY2014-FY2021), the discretionary spending reductions are achieved through a downward adjustment of statutory limits on discretionary spending divided into two new categories that reflect defense and nondefense spending. Importantly, some programs, including both Social Security and Medicaid, are exempt from sequestration, and any sequestration of Medicare spending is capped at 2%.

The precise implications of the automatic spending reduction process cannot be assessed at this time. The amounts of spending reductions required each year cannot yet be known, as they depend in part on the extent, if any, by which the reductions in the joint committee bill fall short of the \$1.2 trillion goal and in part on spending estimates to be calculated in the future by the Office of Management and Budget (OMB). Furthermore, beginning in FY2014, part of the spending reductions will be achieved through a downward adjustment of the statutory limits on discretionary spending, not by automatic across-the-board spending cuts. For discretionary

spending, it will therefore be Congress and the President who later determine the manner in which reductions are made to each account through the annual appropriations process each year.

This process presumably is intended to encourage agreement among policy makers on deficit reduction. During the negotiations over the BCA, it was widely reported that part of the reason to include both defense and domestic spending in the automatic spending reduction process was to encourage lawmakers to work to an agreement on deficit reduction based on an explicit determination of government budget priorities.⁵ Presumably, such an agreement would be preferred by lawmakers to a largely across-the-board cut, proportional to each category, as described here. Thus, many lawmakers presumably have an incentive to prevent the automatic spending reduction process by enacting a joint committee bill reducing the deficit by \$1.2 trillion or more over FY2012-FY2021. Congress and the President could also modify or terminate the process by passing a law altering the BCA, perhaps as part of the deal reached by the joint committee or perhaps in another law enacted sometime in 2012—because sequestration and other automatic spending reduction actions will not take place until 2013.

Vote on Constitutional Amendment to Balance the Budget

The BCA also states that the House and Senate must each vote on a balanced budget amendment to the Constitution between September 30 and December 31, 2011.⁶ In the Senate, to get to a direct passage vote on a constitutional amendment, it might be necessary to secure support from 60 Senators to begin consideration of such a proposal. Many factors, including expectations created by approval of the BCA, could potentially influence whether or not the Senate votes on a balanced budget amendment. The only procedural consequence of not voting as specified in the BCA is that, if Congress does not *approve* a constitutional amendment, one of two avenues for increasing the debt ceiling by \$1.5 trillion, instead of \$1.2 trillion, will not be available.

If a joint resolution proposing a balanced budget amendment to the Constitution is approved by either chamber, then the BCA provides an expedited procedure for that joint resolution to be considered, without amendment, in the other chamber. The BCA does not affect procedures for bringing a measure up before the Senate, however. To summarize, if the House passes a balanced budget amendment by the required two-thirds vote, and if the Senate agrees to take up the House-passed proposal using its regular procedures, then the BCA procedures ensure the Senate will vote on passage of the House proposal.

Federal Student Aid Programs

The BCA also makes changes to the William D. Ford Federal Direct Loan (DL) program and the Federal Pell Grant program, two of the largest federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329).⁷ The BCA amends the

⁵ See, for example, Lori Montgomery, “Obama signs debt bill after Senate passage,” *Washington Post*, August 3, 2011, p. A1; Joseph J. Schatz and Alan K. Ota, “Deal Reached to Boost Debt Limit, Cut Deficit,” *CQ Today Online News*, July 31, 2011; and Fawn Johnson, Chris Strohm, and Coral Davenport, et al., “The Debt Deal: Issue by Issue,” *National Journal Daily*, August 1, 2011.

⁶ For information on proposals to amend the Constitution to require that the federal budget be balanced, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional Options*, by James V. Saturno and Megan Suzanne Lynch.

⁷ For a description of the Federal Pell Grant program, see CRS Report R41437, *Federal Pell Grant Program of the* (continued...)

HEA by eliminating the availability of Subsidized Stafford Loans to graduate and professional students for periods of instruction beginning on or after July 1, 2012. The BCA also eliminates the authority of the Secretary of Education to offer one of the two types of repayment incentives on DL program loans first disbursed on or after July 1, 2012. CBO estimates these changes in the DL program would reduce direct spending by \$9.6 billion over the FY2012-FY2016 period and \$21.6 billion over the FY2012-FY2021 period.

Approximately \$17 billion of the \$21.6 billion in estimated savings from the changes in the DL program would be directed to the Pell Grant program for future general use. The BCA provides \$10 billion in mandatory funding for FY2012, and \$7 billion in mandatory funding for FY2013 for the program. These additional funds would reduce the amount of discretionary appropriations required in FY2012 and FY2013, although additional funding above the FY2011 discretionary level of approximately \$23 billion may still be required in order to maintain the current eligibility parameters of the program in FY2012.

Expedited Procedures: General Observations

The BCA establishes legislative procedures for the expedited consideration of three legislative proposals: a resolution disapproving a debt increase, the joint committee bill, and a balanced budget constitutional amendment passed by the other chamber. The specifics of each of these procedures are contained in the relevant sections of this report, but the procedures are similar enough that it is possible to generalize about them.⁸

First and foremost, as is the case with all provisions of law that establish internal congressional procedures, either chamber can unilaterally decide to modify or otherwise disregard the procedures established by the BCA. Under the Constitution, each chamber may “determine the Rules of its Proceedings,”⁹ and the BCA even explicitly acknowledges in two cases that the expedited procedures are being created with full acknowledgement of the right of either chamber to modify them.¹⁰ To be clear, this is not to say that individual members or party leaders can deviate from the procedures established by the law without consequence; it is to say that the House or the Senate, acting under its regular rules, could modify the process without the permission of the other chamber. In the House, for example, this might be done by the approval of a special rule reported by the Committee on Rules. In the Senate, unanimous consent agreements might alter the specifics of the BCA’s application.

Second, a motivation for the creation of expedited procedures is that they alter a fundamental feature of regular Senate procedure: the right of each Senator to engage in unlimited debate on a

(...continued)

Higher Education Act: Background, Recent Changes, and Current Legislative Issues, by Shannon M. Mahan. For a description of the DL program, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

⁸ See also CRS Report 98-888, *“Fast-Track” or Expedited Procedures: Their Purposes, Elements, and Implications*, by Christopher M. Davis

⁹ Article 1, Section 5.

¹⁰ Section 301 (g)(2), with respect to consideration of a joint resolution disapproving a debt limit increase, and Section 404(2), with respect to the Joint Committee bill, state that the provisions are enacted by Congress with “full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner, and to the same extent as the case of any other rule of that House.”

question. Under Senate rules, getting to a vote on most questions essentially requires either unanimous consent or the support of three-fifths of the Senate (normally 60 Senators). Even with the support of 60 Senators, considering legislation can be time consuming, since the cloture process used to limit consideration of any question takes several days and might have to be used in connection with more than one question. The procedures established for the consideration of the joint committee bill and for the consideration of the resolution disapproving a debt limit increase both allow the Senate to take up the legislation without debate, and therefore without the need for a multi-day, supermajority-vote cloture process. All of the expedited procedures created in the BCA place a time limit on floor consideration of the legislation, which means if the Senate has agreed to consider a measure, the Senate will have an opportunity to vote on it. All of the expedited procedures also prevent amendments.

In contrast to the Senate, in the House the same numerical majority that can pass a bill can set the terms for its consideration. For this reason, in part, the House majority might bring up the legislation as it normally does for other bills through adoption of a special rule, although this method is likely to preserve key elements of the expedited procedures including a prohibition on amendments, time restrictions on debate equally divided between a proponent and an opponent, and a prohibition on the motion to recommit.

Another motivation, however, for the creation of expedited procedures in both chambers is to establish a means of ensuring that the measure in question can be brought to the floor even if the leadership (and the committees of jurisdiction) do not seek its consideration. The statutory procedures established in the BCA provide a means by which a numerical majority, and not necessarily the partisan majority, can take up legislation in the House and Senate.

Debt Ceiling Increase and Disapproval Process

Increases in the Debt Limit in Three Installments

The Budget Control Act authorizes increases to the debt limit by at least \$2.1 trillion (and up to \$2.4 trillion), in three installments. First, upon the certification by the President that the debt subject to limit is within \$100 billion of the debt limit, the debt limit is increased by \$400 billion immediately.¹¹ Second, if Congress does not enact into law a joint resolution of disapproval within 50 calendar days of receipt of the certification, the debt limit is increased by an additional \$500 billion. If Congress enacts a joint resolution of disapproval (presumably over a presidential veto), the debt limit will not be increased and the Office of Management and Budget is required to sequester budgetary resources on a “pro rata” basis, subject to sequestration procedures and exemptions provided in Sections 253, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.¹²

¹¹ President Obama submitted such certification on August 2, 2011. It is available at <http://www.whitehouse.gov/the-press-office/2011/08/02/message-president-us-congress>.

¹² Sequestration is a process of automatic largely across-the-board spending cuts to non-exempt programs. Under the specified procedures, the cuts would be equally split between defense and non-defense nonexempt programs. For background information on the sequestration process, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

Third, if the debt limit has been increased by the first \$900 billion and upon another certification that the debt subject to limit is within \$100 billion of the debt limit, Congress will have 15 calendar days of receipt of the certification to enact into law a joint resolution of disapproval to prevent another increase in the debt limit (again over a presumed presidential veto). If Congress does not enact such resolution, the debt limit is increased by one of three amounts: (1) \$1.2 trillion; (2) an amount between \$1.2 trillion and \$1.5 trillion, if Congress passes and the President signs into law legislation introduced by the Joint Select Committee on Deficit Reduction;¹³ or (3) \$1.5 trillion, if a Constitutional amendment requiring a balanced budget is submitted to the states for ratification.

In summary, while an initial increase in the debt limit of \$400 billion is effective immediately and not subject to congressional disapproval, subsequent additional increases of \$500 billion and an amount between \$1.2 trillion and \$1.5 trillion are subject to congressional disapproval. That is, for either of the two subsequent additional increases in the debt limit, if Congress enacts a joint resolution of disapproval, the debt limit would not be increased by such amounts.

Expedited Procedures for Consideration of Disapproval Resolution

Introduction of a Qualifying Joint Resolution

A joint resolution disapproving either debt limit increase can be considered in both chambers under expedited procedures that limit debate and prevent amendment. A disapproval resolution would qualify for consideration under the expedited procedures of the BCA only if it meets specific content and timing criteria. The BCA mandates the exact language of a disapproval resolution: “That Congress disapproves of the President’s exercise of authority to increase the debt limit, as exercised pursuant to the certification under section 3101A(a) of title 31, United States Code.”¹⁴ The BCA also provides the title for the joint resolution and states that it may not contain a preamble.

To qualify for expedited consideration, the joint resolution of disapproval also must be introduced by specific times. For the first opportunity to disapprove the increase in the debt limit, the resolution must be introduced on September 6, 7, 8, or 9, 2011.¹⁵ For the opportunity to disapprove the second increase, the resolution must be introduced either the day the certification (that the debt subject to limit is within \$100 billion of the debt limit) is received from the President or on any of the next three calendar days.

The BCA procedures apparently aim to ensure an opportunity for timely consideration of a disapproval resolution. In both chambers, any Member can introduce the joint resolution. Furthermore, if a chamber would otherwise not be in session when the President submits the second certification, the BCA requires the House Speaker and Senate majority leader (in consultation with the Senate minority leader) to reconvene their respective chambers within two calendar days after receiving the certification from the President.

¹³ The debt limit increase would be equal to the amount by which the legislation reduces the deficit, if such amount exceeds \$1.2 trillion, up to \$1.5 trillion.

¹⁴ Section 301(b)(2)(D).

¹⁵ The BCA provides that if the Senate is not in session on any of those days, the joint resolution will qualify for expedited consideration if it is introduced the next calendar day after September 9, 2011 that the Senate is in session.

The BCA anticipates introduction of a joint resolution of disapproval in both chambers.¹⁶ Each chamber could initially consider its own joint resolution, although either eventually the House would need to pass the Senate joint resolution, or the Senate would need to pass the House joint resolution, in order to meet the constitutional requirement that the chambers pass precisely the same text in the same measure. The act also anticipates that each chamber will act on its own proposal by providing that if a chamber receives a joint resolution of disapproval from the other house before it has concluded consideration of its own resolution, it can consider or continue to consider its own legislation, but the final passage vote will be held on the resolution received from the other chamber.

Senate Consideration

After a Senator introduces the joint resolution, it will be placed directly on the Senate calendar instead of being referred to committee.¹⁷ A motion to proceed to the consideration of the joint resolution will not be subject to debate if it is offered within a specified brief period after the certification is received from the President.¹⁸ A non-debatable motion to proceed to a House-passed joint resolution of disapproval could also be made instead, as long as the Senate has not already considered a Senate resolution of disapproval. This non-debatable motion to proceed expedites the process of bringing a matter before the Senate.¹⁹ Under the regular rules of the Senate, motions to proceed are usually subject to debate, so it therefore is sometimes necessary to gain the support of three-fifths of the Senate (60 Senators if no more than one vacancy) in order to end debate on the question of taking up a matter. In addition, if any motion to proceed to the disapproval resolution is disagreed to, another may be offered, although presumably only in the time frame provided. In addition, the BCA waives all points of order that could be raised against consideration of the joint resolution, and it also precludes several motions that could be used to delay its consideration.

If a majority of Senators voting agree to the motion to proceed, the joint resolution “shall remain the unfinished business until disposed of,”²⁰ meaning that it would require unanimous consent to turn to any other business and even the maturation of a cloture motion on another matter would not interrupt its consideration. The total time for consideration of the resolution is limited to 10 hours, equally divided between the majority and minority leader (or their designees). Because the time is controlled, Senators who wish to speak will need to be yielded time from one of the

¹⁶ If no Senator introduces a joint resolution of disapproval, and the House passes one, then the House-passed joint resolution is to be eligible for Senate consideration under the expedited procedures.

¹⁷ Regular Senate rules provide a means for a single Senator to cause a measure to be placed directly on the calendar, but it takes several legislative days. For more information, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by Michael L. Koempel.

¹⁸ More specifically, for the joint resolution of disapproval that must be introduced between September 6 and 9 (or, if the Senate is not in session those days, the next calendar day after September 9 that it is in session), the non-debatable motion to proceed is in order from the time of introduction until September 14, 2011, or a maximum of 8 days after introduction. For the joint resolution to disapprove the second debt limit increase, the non-debatable motion to proceed is in order from the time of the joint resolution’s introduction (which can occur the day the certification is received or on any of the next 3 calendar days) until the sixth day after the certification is received, or a maximum of 6 days after introduction.

¹⁹ Under Section 301(d)(3)(A) of the BCA, the motion to proceed to a joint resolution of disapproval can be made “Notwithstanding Rule XXII” (the cloture rule). Presumably, a motion to proceed could be made even if the Senate was considering another matter on which cloture had been invoked, something otherwise barred by Rule XXII.

²⁰ Section 301(d)(3)(A).

Leaders or another Senator acting as the floor manager. Because total *consideration* time is limited, time spent making requests or motions and time spent conducting quorum calls and votes, in addition to time spent in debate, will all count toward the 10 hour limit.²¹ The Senate could consider the measure for less than 10 hours by unanimous consent, if Senators controlling time yield back time, or if a majority agree to a non-debatable motion to further limit debate. Several motions, most significantly any motion to amend the joint resolution, are precluded by the BCA, and appeals from decisions of the Chair are not debatable. A House-passed joint resolution of disapproval would be subject to the same procedures if no joint resolution is introduced or considered in the Senate.

Under the BCA, the Senate is to vote on passage of the joint resolution immediately after the expiration of the 10 hours of consideration, except that any Senator could request a live quorum call just prior to the vote.²² If, at the time of the vote, the Senate has received the House version of the disapproval resolution, the final passage vote would occur on the House resolution instead of the Senate resolution.

House Consideration

In the House, after a joint resolution of disapproval is introduced, it is to be referred to committee as under the regular rules of the House. The BCA provides that if a committee fails to report within five calendar days after introduction, it will be automatically discharged and the joint resolution will be placed on the House calendar.

The BCA creates a special procedure for the House to take up the joint resolution, debate it for two hours, and take an up-or-down vote thereon without allowing Members to offer an amendment or a motion to recommit. The House could use these statutory procedures, or it might instead choose to take up the joint resolution through a special rule reported by the Rules Committee or by another method available under regular House rules.

Under the BCA procedures, once the committee has reported the measure (or been discharged), and no later than the sixth day after its introduction, any Member can move that the House take up the joint resolution. All points of order against the motion to proceed to the joint resolution are waived by the BCA, and the motion is not debatable; consequently the House would vote on the taking up the resolution immediately after the motion was made.²³

If the House agrees to consider the joint resolution, it will be debated for up to two hours, equally divided and controlled by a proponent and an opponent. All points of order against the joint resolution are waived, and no amendments can be offered. Under ordinary House procedures the minority party is generally guaranteed a chance to offer a motion to recommit a bill prior to final passage, a motion that is effectively an opportunity to amend the bill.²⁴ No such opportunity is available under the statutory provisions.

²¹ Presumably, the time used for votes and the time used for quorum calls will be charged equally to each side.

²² Section 301(d)(3)(C).

²³ To prevent questions already decided by the House from being re-visited, once a motion to proceed has been disposed of, another motion to proceed is not in order. In addition, motions to reconsider the question of taking up the joint resolution or the question on passage are not in order.

²⁴ For more information, see CRS Report 98-383, *Motions to Recommit in the House*, by Betsy Palmer.

If the House has received a joint resolution of disapproval from the Senate prior to voting on its own version of the joint resolution, the final passage vote in the House will occur on the Senate vehicle.

Procedures Following a Presidential Veto and the Enactment Deadline

Although only a majority of each chamber is necessary to agree to a resolution of disapproval, preventing an increase in the debt limit might ultimately require supermajority support. This is because if the Treasury has advised the President that further borrowing is required to meet existing commitments, the President might normally be expected to veto the congressional resolution of disapproval. Congress can override a presidential veto, but to do so would require the support of two-thirds of each chamber. The joint resolution of disapproval would be returned to the chamber that originated it, which under the statutory procedures will be the chamber that passes it first. Only if that chamber agreed to override the veto with a two-thirds vote would the second chamber also have an opportunity to vote on the question of overriding the veto.

The BCA limits debate on any veto message received in the Senate to one hour, equally divided between the majority and minority leaders or their designees.²⁵ Under regular Senate rules, the question of overriding the veto, and some other available motions that could displace consideration of the veto message, are subject to extended debate. The statutory debate limitation could allow a numerical majority of the Senate to get to a vote on the question of overriding the veto more quickly than might be possible under its regular rules. In the House, the veto message would be considered under its regular procedures which would normally limit debate to one hour.²⁶

The BCA limits the time by which each potential disapproval resolution must be enacted into law. The disapproval resolution responding to the President's first certification has 50 calendar days from the time the Congress received the certification to be enacted into law. Similarly, a disapproval resolution in response to the President's second certification must be enacted into law within 15 calendar days from the time Congress receives the certification. As a result, successful enactment of a disapproval resolution might require not just passage by both chambers and presentment to the President but also, if the President returns the measure, a timely veto override vote in each chamber.

Under the Constitution, the President has up to 10 days, excluding Sundays, to either sign or veto a measure sent by the Congress.²⁷ If these days count toward the deadline for enactment, the length of time the President holds the measure could influence how much time, if any, Congress would have to act on a possible veto before the expiration of time allowed by the statute for enactment. Under the act, accordingly, if Congress passes a joint resolution of disapproval, the time that the President is in possession of the enrolled joint resolution is apparently not to be counted toward the 50 (or 15) days.²⁸

²⁵ Section 301(f)(4)(B).

²⁶ See CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

²⁷ After 10 days, if Congress is in session, the measure would become law without the President's signature. If Congress has ended its session and the President does not sign the measure, it will not become law; this action is known as a "pocket veto." For more information, see CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: An Overview*, by Kevin R. Kosar.

²⁸ There is apparent ambiguity with regard to how days in which either house is not in session are to be counted. (continued...)

Statutory Limits on Discretionary Spending

Section 101 of the Budget Control Act of 2011 (BCA) amends Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Title II of P.L. 99-177, 2 U.S.C. 900-922) to establish 10-year adjustable statutory limits (or caps) on discretionary spending, enforced primarily through a sequestration process. Discretionary spending is provided and controlled through the annual appropriations process.²⁹ Statutory limits on discretionary spending were previously created by the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508), which also amended the BBEDCA, and twice were extended, in 1993 and 1997, but expired at the end of FY2002.³⁰ Section 104 of the BCA repeals the expiration date in the BBEDCA, and thereby restores many features of the previous statutory discretionary limits, including the sequestration enforcement process.

The new statutory limits cap the amount of new budget authority for each fiscal year covering FY2012-FY2021 (see **Table 1**).³¹ For FY2012 and FY2013, the spending limits are divided into two separate categories: security and nonsecurity. The security category includes discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150). The nonsecurity category includes discretionary spending in all other budget accounts. For FY2014-FY2021, the limits cap spending in a single category (specified as the discretionary category), which includes all discretionary spending in all budget accounts.

Adjustments

The BCA allows for the adjustment of the discretionary limits for six different purposes.³² Five of the six adjustments effectively exempt certain discretionary spending from the statutory caps. The limits could be adjusted to accommodate: (1) changes in concepts and definitions; (2) appropriations designated as emergency requirements; (3) appropriations designated for Overseas Contingency Operations/Global War on Terrorism (such as for military activities in Iraq and

(...continued)

Section 301(b)(1) states that the 50 days and 15 days run “(regardless of whether Congress is in session).” Section 301(f)(4) states that the period beginning from presentation and ending the date the President “signs, allows to become law without his signature, or vetoes and returns the joint resolution (but excluding days when either House is not in session) shall be disregarding in computing the appropriate calendar day period....”

²⁹ Discretionary spending represents a portion of total federal spending. The other portion, referred to as direct spending (also referred to as mandatory spending), is generally provided in or controlled by authorizing legislation that requires federal payments to individuals or entities, often based on eligibility criteria and benefit formulas set forth in statute. Some direct spending is funded in appropriations acts, referred to as appropriated entitlements, but is controlled by the authorizing statute(s). Direct spending, including direct spending provided in appropriations acts, is not subject to the statutory limits.

³⁰ For further information, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

³¹ For information on the projected savings and impact on budget deficit projections resulting from these limits, see Congressional Budget Office, Letter to Honorable John A. Boehner, Speaker, U.S. House of Representatives, and Honorable Harry Reid, majority leader, United States Senate, cost estimate of the Budget Control Act of 2011, August 1, 2011, available at <http://www.cbo.gov/doc.cfm?index=12357>.

³² Previous discretionary limits under the BEA, as extended through FY2002, also allowed for specific adjustments.

Afghanistan); (4) appropriations for continuing disability reviews and redeterminations; (5) appropriations for controlling health care fraud and abuse; and (6) appropriations designated as being for disaster relief.

Table I. Statutory Limits on Discretionary Spending and Certain Adjustments, FY2012-FY2021

(in billions of budget authority)

Fiscal Year	Discretionary Spending Limits^a	Maximum Adjustments for Program Integrity Initiatives^b
2012	\$684 security \$359 nonsecurity	\$0.893
2013	\$686 security \$361 nonsecurity	\$1.050
2014	\$1,066	\$1.253
2015	\$1,086	\$1.484
2016	\$1,107	\$1.561
2017	\$1,131	\$1.723
2018	\$1,156	\$1.743
2019	\$1,182	\$1.763
2020	\$1,208	\$1.784
2021	\$1,234	\$1.805

Source: Sections 251(b) (relating to adjustments) and 251(c) (relating to limits) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25).

- a. The security category includes discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150). The nonsecurity category includes discretionary spending in all other budget accounts.
- b. The adjustments for program integrity initiatives include appropriations for “continuing disability reviews” under Disability Insurance and Supplemental Security Income (SSI) and “redeterminations” of eligibility under SSI beneficiaries and appropriations for the “health care fraud abuse program at the Department of Health and Human Services.” Adjustments also are allowed to accommodate changes in concepts and definitions, as well as discretionary appropriations designated as emergency requirements, designated for Overseas Contingency Operations/Global War on Terrorism, and designated as being for disaster relief. The adjustments for the first three will equal the amounts so designated, with no limit on such adjustments, whereas the adjustments for the last one, disaster relief, is limited each year to an amount based on an historical average for such funding, as described in the text. OMB is required to calculate the initial such average within 30 days of enactment of the BCA.

The first three adjustments are not capped, and therefore the statutory limits would be adjusted by the amounts meeting the conditions for the adjustment. Once a year, the Office of Management and Budget (OMB) can adjust the limits to reflect changes in concepts and definitions, in consultation with the Committees on Appropriations and Budget in each house. In addition, the limits must be adjusted by the amounts of appropriations designated as emergency requirements and those designated for Overseas Contingency Operations/Global War on Terrorism

(OCO/GWOT) in statute and subsequently by the President.³³ The emergency and OCO/GWOT designations must be made on an account-by-account basis; this requirement presumably would preclude a blanket designation, for example, covering all appropriations provided in an appropriations act.

The three other adjustments are capped at certain amounts of appropriations for the specified purposes for each year. Two of the three adjustments allow for additional appropriations for program integrity initiatives—activities that are intended to produce a net reduction in federal spending;³⁴ the remaining adjustment allows for additional appropriations for relief activities associated with unexpected natural disasters. First, the adjustment for appropriations for “continuing disability reviews” under Disability Insurance and Supplemental Security Income (SSI) and “redeterminations” of eligibility under SSI beneficiaries would be the amount provided for such activities in excess of \$273 million each year, with a maximum adjustment ranging from \$623 million for FY2012 to \$1,309 million for each of fiscal years 2017 through 2021, allowing for a total adjustment of \$11,132 million over the entire period of FY2012-FY2021. Second, the adjustment for appropriations for the “health care fraud abuse program at the Department of Health and Human Services” would be the amount provided for such activities in excess of \$311 million each year, with a maximum adjustment ranging from \$270 million for FY2012 to \$496 million for FY2021, allowing for a total adjustment of \$3,927 million over the entire period of FY2012-FY2021. Finally, the adjustment for appropriations that Congress designates as being for disaster relief in statute may not exceed, in any year, “the average funding provided for disaster relief over the previous 10 years, excluding the highest and lowest years” plus the amount by which the appropriations so designated in the preceding fiscal year was less than the applicable average funding level.³⁵ For example, if in a fiscal year Congress designates \$10 million less than the average level, then in the next fiscal year, the maximum adjustment could equal the applicable average level for that year plus the \$10 million from the previous year.

Enforcement

The discretionary spending limits are primarily enforced through a sequestration process.³⁶ Sequestration is the largely across-the-board cancellation of budgetary resources (i.e., spending cuts) in nonexempt accounts.³⁷ If the final sequestration report (explained below), issued within

³³ Any adjustment is based on the designation, not on the purpose for which the appropriations are provided. That is, Congress and the President may designate any appropriations as emergency requirements or for OCO/GWOT, as they so choose. Section 102 of the BCA defines in statute, by amending the BBEDCA, the term “emergency.” However, this definition is not directly tied to the designation for purposes of any adjustments to the statutory limits on discretionary spending.

³⁴ For further information on such initiatives, see CRS Report RL34217, *Medicare Program Integrity: Activities to Protect Medicare from Payment Errors, Fraud, and Abuse*, by Cliff Binder.

³⁵ “Disaster relief” is defined as “activities carried out pursuant to a determination under Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).” Appropriations for such “disaster relief” may not be designated as emergency requirements or for OCO/GWOT. Within 30 days of enactment of the BCA, OMB is required to report to the Committee on Appropriations and Budget of each House the average funding provided for disaster relief.

³⁶ Under Section 258(b) of the BBEDCA, as restored by the repeal of the expiration date in Section 104 of the BCA, the sequestration process is suspended upon the enactment of a declaration of war.

³⁷ “Budgetary resources” include new budget authority, unobligated balances, and obligation limitations. Certain programs and budget accounts are exempt from any sequestration, such as all programs administered by the Department of Veterans Affairs, as provided by Section 255 of the BBEDCA (as restored by Section 104 of the BCA). In addition, the President may exempt any military personnel account or provide for a lower uniform percentage (continued...)

15 calendar days after the end of a session of Congress, indicates that discretionary appropriations within a category exceed the spending limit for that category, sequestration is triggered automatically. The President is required to issue a sequestration order canceling budgetary resources in nonexempt accounts, within the category in which the breach occurred, by an amount necessary to eliminate the breach.³⁸ For instance, if for FY2012 or FY2013 discretionary appropriations within the security category are enacted that results in a breach of the security category limit for either year, a sequestration of only security spending would occur to eliminate that breach. As noted above, for FY2014-FY2021, only one category exists for total discretionary appropriations; therefore, a sequestration, if necessary, would occur in that total discretionary appropriations category. Under the sequestration process, each nonexempt account is reduced by a uniform percentage, except that certain health and medical care accounts are limited to a 2% reduction, under Section 256(e) of the BBEDCA (as restored by Section 104 of the BCA).³⁹

Along with the end-of-the-session sequester, a within-session sequester is required if an appropriation, such as a supplemental appropriation, causes a spending limit to be breached during a fiscal year. In this case, sequestration would occur 15 days after the enactment of the appropriation. If such a breach occurs in the last quarter of the fiscal year (i.e., July 1 through September 30), the applicable spending limit for the following fiscal year must be reduced by the amount of the breach.

The BCA also provides for the enforcement of the discretionary spending limits by points of order during the consideration of appropriations legislation in each house (new Section 314(e) of the Budget Act).⁴⁰ Because the caps limit the total amount of budget authority for the budget year, the order in which an individual appropriations bill is considered will affect whether or not it is subject to the point of order. The point of order most likely would apply to, and during the consideration of, the last appropriations act considered by each House, and any supplemental appropriations acts considered after the regular appropriations acts have been enacted.⁴¹ In the Senate, a motion to waive the point of order requires an affirmative vote of three-fifths of Senators, duly chosen and sworn (i.e., 60 Senators if there is no more than one vacancy);⁴² in the House, a special rule waiving the point of order would require an affirmative majority vote.

(...continued)

reduction in any such account, provided that he notify Congress of such actions by August 10 and, if a sequestration is required, that other accounts in budget subfunctional category 051 ("Department of Defense-Military") be reduced by a uniform percentage to offset the amount not reduced by such exemption.

³⁸ Section 258A of the BBEDCA provides expedited procedures in the Senate for a joint resolution modifying a final sequestration order.

³⁹ If a budget account has received only a part-year appropriation at the time of the sequestration order, in a continuing appropriations act, for example, the reduction is taken from the annualized amount of the part-year appropriation, and from the full-year amount, when a full-year appropriation is enacted.

⁴⁰ The BCA amends Section 314(a) of the Budget Act to allow the chairs of the Budget Committee of each house to make the adjustments provided under the new Section 251 of the BBEDCA, as described above.

⁴¹ Generally, the primary procedural constraint on the level of discretionary spending provided in appropriations acts is the point of order enforcing the Section 302(b) allocations associated with the congressional budget resolution. To the extent the levels of discretionary spending included in the congressional budget resolution for a fiscal year are consistent with the statutory caps for that year, the Section 302(b) allocations will continue to be the primary procedural enforcement of discretionary spending levels. For additional information on the suballocations, see CRS Report RS20144, *Allocations and Subdivisions in the Congressional Budget Process*, by Bill Heniff Jr.

⁴² An appeal from the ruling of the chair on such a point of order requires only a majority vote. However, this point of order is duplicative of the point of order under Section 312(b) of the Budget Act, which requires an affirmative vote of three-fifths of Senators for a motion to waive the point of order and for an appeal from the decision of the chair.

Reports

OMB and CBO are required to issue several reports throughout each year to assist Congress in complying with the spending limits and, in the case of OMB's final sequestration report, to trigger the sequestration of budgetary resources, if any limit is exceeded.⁴³ First, for each appropriations act signed into law, OMB is required to issue a cost estimate of the legislation within seven days of its enactment; CBO is required to provide to OMB its cost estimate of such legislation as soon as practicable after Congress completes action on such legislation. Second, three separate sequestration reports are required, at certain times during the year, to provide the status of the discretionary spending limits, including any appropriate adjustments to the limits: (1) a sequestration preview report, (2) a sequestration update report, and (3) a final sequestration report.⁴⁴ OMB is required to issue such reports with the President's budget submission, by August 20, and 15 days after the end of a session, respectively; CBO is required to issue its own sequestration update and final sequestration reports five days prior to OMB's reports.⁴⁵ Most importantly, OMB's final sequestration report generally is the only report triggering a sequester. Therefore, if a breach has occurred, the final report must include the percentage reduction and amount of budgetary resources to be sequestered, for each affected budget account.

Rules Related to Provisions Designated as Emergency in the House

Section 105(a)(3) of the BCA amends the Congressional Budget Act to establish certain procedural rules relating to the treatment of, and consideration of legislation containing, provisions designated as an emergency requirement.⁴⁶ In general, the rules allow the House to exempt from congressional budget constraints provisions designated as emergency requirements pursuant to the BBEDCA, as amended by the BCA. They also provide opportunities for Members to strike such designations and offer proposals to offset the budgetary effects of a designated provision.

First, any new discretionary appropriations designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA will not be counted for purposes of Titles III and IV of the Budget Act.⁴⁷ As explained above (see "Adjustments" section), under Section 251(b)(2)(A) of the BBEDCA, the statutory discretionary spending limits may be adjusted to accommodate

⁴³ Many of these reports are required by Section 254 of the BBEDCA, which was restored by Section 104 of the BCA.

⁴⁴ In addition, if a supplemental appropriations act is enacted before July 1 and would cause a spending limit to be breached, OMB would be required to issue a within-session sequestration report 15 days after the enactment of the appropriation.

⁴⁵ Section 104(b) of the CBA relieved CBO from issuing a sequestration preview report.

⁴⁶ Specifically, it amends Section 314 of the Budget Act.

⁴⁷ The new section specifies that such rules would also apply to a provision "reducing revenue" designated as an emergency requirement. However, Section 251(b)(2)(A) of the BBEDCA, as amended by the BCA, pertains to discretionary appropriations so designated only; that is, presumably a provision reducing revenue could not be designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA. Therefore, it is unclear how this new provision would affect legislation reducing revenue. In addition, the BCA appears to restate Section 314(d)(1) in a new Section 314(d)(2)(A); the only difference is that Section 314(d)(2)(A) refers to "a designation ... as an emergency pursuant to paragraph (1)," which is Section 314(d)(1). Therefore, this second provision presumably would have no additional effect.

appropriations designated, on an account-by-account basis, as emergency requirements.⁴⁸ The rules change effectively allows the House to exempt such spending from certain spending constraints, such as the appropriations subcommittee allocations under Section 302(b) of the Budget Act.

Second, new Section 314(d)(2)(B) of the Budget Act provides that the budgetary effects of a motion to strike a designation (presumably an emergency designation)⁴⁹ shall not be counted for purposes of Titles III and IV of the Budget Act and the House Standing Rules. The rule would allow a Member to offer an amendment to strike the designation without being subject to a point of order. Without this rule, a motion to strike an emergency designation contained in an appropriations act, for example, would likely be subject to a point of order under Section 302(f) of the Budget Act because striking the designation would cause the applicable new budget authority to be counted and therefore likely cause the appropriations bill to exceed its Section 302(b) allocation.⁵⁰

Finally, new Section 314(d)(2)(C) of the Budget Act provides that an amendment proposing to strike an emergency designation and also to reduce “each amount appropriated or otherwise made available” shall be in order at any time during the reading of a bill for amendment. The purpose of such an amendment would presumably be to make across-the-board reductions in spending already subject to the applicable spending cap sufficient to accommodate the appropriation newly being subjected to the spending constraint. Without this rule, such an amendment, making across-the-board reductions throughout the bill, generally would not be in order for at least three reasons: (1) it proposes to amend a paragraph or section in a bill not yet read for amendment; (2) it proposes to amend a paragraph or section already read for amendment; and (3) it proposes to amend the bill in more than one place.⁵¹ Under the rule, nevertheless, such an amendment presumably would be subject to a demand for a division of the question (thereby forcing separate votes on striking the designation and reducing the appropriated amounts).

Senate Budget Enforcement for FY2012 and FY2013

Section 106 of the Budget Control Act establishes certain procedural provisions for the purpose of budget enforcement for FY2012 and FY2013 that apply in the Senate only, which expire, with respect to each of these fiscal years, if Congress adopts a budget resolution for that year. The

⁴⁸ The BCA also amended Section 314(a) of the Budget Act to allow the chair of the House Committee on the Budget to “make appropriate budgetary adjustments of new budget authority and the outlays flowing therefrom in the same amount as required by section 251(b) of the [BBEDCA].” “Appropriate budget adjustments” might include the amounts included in, and associated with, the congressional budget resolution, which are enforced under Titles III and IV of the Budget Act. Presumably, the chair would not make such adjustments if the budgetary effects were not counted as provided under Section 314(d)(1).

⁴⁹ There appears to be some ambiguity in the plain text of the rule as to an applicable “designation.” The rule specifies “a designation under subparagraph (A)” (i.e., Section 314(d)(2)(A) of the Budget Act), which refers to “a designation pursuant to paragraph (1)” (i.e., Section 314(d)(1) of the Budget Act). Section 314(d)(1) does not appear to confer any authority to designate a provision as an emergency; instead, the section, as noted above, requires that the budgetary effects of a provision designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA not be counted for purposes of certain budget constraints.

⁵⁰ For further information on spending allocations under the Budget Act, see CRS Report RS20144, *Allocations and Subdivisions in the Congressional Budget Process*, by Bill Heniff Jr.

⁵¹ For further information on general restrictions on amendments in the House, see CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

provisions would establish budget levels enforceable in the Senate, including constraints on spending provided in appropriations acts for FY2012 and FY2013, if the House and Senate are not able to agree on a budget resolution for the respective fiscal year.⁵²

Specifically, these procedural provisions of the BCA require the chair of the Senate Budget Committee (SBC) to file a statement of levels of various budgetary amounts that would ordinarily be established by the budget resolution for FY2012, including committee spending allocations, aggregate spending and revenue levels, and Social Security revenue and outlay levels, covering the period FY2011-FY2021.⁵³ The budget levels filed must be consistent with the statutory discretionary spending limits, established by Section 101 of the BCA, and with CBO's March 2011 baseline levels (adjusted to account for the budgetary effects of the BCA, as well as of any other legislation enacted prior to the BCA).⁵⁴ Under the provisions of Section 106 of the BCA, these levels are to have the same force and effect as if they were included and associated with a budget resolution for FY2012 adopted by Congress.

The SBC chair would also be required to file such budget levels covering the period FY2012-FY2022, by April 15, 2012, consistent with the same baseline parameters, and such levels would have the same force and effect as if they were included and associated with a budget resolution for FY2013 adopted by Congress.

Finally, the SBC chair is required to reduce the balances on the Senate Pay-As-You-Go (PAYGO) ledger to zero. The Senate PAYGO rule generally requires that any legislation projected to increase direct spending or reduce revenues must also include equivalent amounts of direct spending cuts, revenue increases, or a combination of the two, so that the legislation does not increase the on-budget deficit over a six-year period and an 11-year period.⁵⁵ The PAYGO ledger records any projected deficit reduction resulting from legislation (except reconciliation legislation) enacted since the beginning of the calendar year and not accounted for in the baseline, as defined by the rule. Therefore, reducing the balance to zero would prevent such balances (in particular, those resulting from the deficit reduction included in the BCA) from being used to offset increases in the deficit resulting from legislation subsequently considered in the Senate.

⁵² The provisions are similar to so-called "deeming resolution" provisions that the Senate and the House have adopted individually in the absence of an agreement on a budget resolution. For more information on such "deeming resolutions," see CRS Report RL31443, *The "Deeming Resolution": A Budget Enforcement Tool*, by Megan Suzanne Lynch.

⁵³ Once filed, the budget levels presumably will also be submitted for printing in the *Congressional Record*.

⁵⁴ The chair may also adjust such levels pursuant to the adjustments allowed under the BCA, such as the adjustment for appropriations designated for Overseas Contingency Operations/Global War on Terrorism. In addition, Section 106(d)(2) of the BCA provides that Sections 412 (relating to administrative expenses of the Social Security Administration and of the Postal Service), 413 (relating to the application and effect of such adjustments), and 414 (providing authority to make adjustments to reflect changes in concepts and definitions) of S.Con.Res. 13, the FY2010 budget resolution, shall remain in effect.

⁵⁵ The Senate PAYGO rule is provided in Section 201 of S.Con.Res. 13 (110th Congress), the FY2008 budget resolution. For further information on the Senate PAYGO rule, see CRS Report RL31943, *Budget Enforcement Procedures: Senate Pay-As-You-Go (PAYGO) Rule*, by Bill Heniff Jr.

Joint Select Committee on Deficit Reduction

Title IV of the Budget Control Act establishes a Joint Select Committee on Deficit Reduction, composed of an equal number of Senators and Members of the House, and instructs it to develop a proposal that would reduce the deficit by at least \$1.5 trillion over FY2012 to FY2021. The BCA provides no other guidelines regarding the policy content of the proposal. The proposal, if reported by a majority of the joint committee by November 23, 2011, could be considered by each chamber under special procedures that prevent amendment and limit debate. The expedited procedures represent a significant divergence from regular Senate procedures, under which it can generally become necessary to obtain agreement among at least three-fifths of the Senate (normally 60 Senators) in order to bring debate to a close and the chamber to a vote on a matter. The expedited procedures in each chamber will only apply to a joint committee bill passed on or before December 23, 2011. If a joint committee bill reducing the deficit by at least \$1.2 trillion is not signed into law by January 15, 2012, then the process of automatic spending reduction created by the BCA will begin to occur in January of 2013.

The BCA identifies several other specific actions the joint committee and Congress are expected to take by certain dates (**Appendix B, Table B-1**). In some cases, the BCA establishes direct, procedural consequences if an action is not completed by a stated time. In other cases, there is no immediate procedural result if an action is not taken, or if it is not taken by a stated deadline. Ultimately, if the joint committee bill does not become law, then the consequence is the automatic spending reduction process explained in the following section of this report.

Establishment of the Joint Committee

Membership

Party leaders appointed the 12 members of the Joint Select Committee on Deficit Reduction by the target date established in the BCA of August 16, 2011.⁵⁶ The Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader each appointed three members. From among these 12 joint committee members, the Senate majority leader appointed a co-chair and the House Speaker appointed the other co-chair. If any seat on the joint committee becomes vacant, due to resignation or otherwise, the leader who appointed the member vacating the seat would appoint a replacement within 14 days. Members of the joint committee will serve until its termination on January 31, 2012. Committee members must comply with the ethics rules of their respective chambers (Section 401(c)(2)).⁵⁷

⁵⁶ The Members of the House appointed to the joint committee are Jeb Hensarling (R-TX), co-chair; Dave Camp (R-MI); Fred Upton (R-MI); Xavier Becerra (D-CA); James E. Clyburn (D-SC); and Chris Van Hollen (D-MD). The Senators appointed to the joint committee are Patty Murray (D-WA), co-chair; Max Baucus (D-MT); John F. Kerry (D-MA); Jon Kyl (R-AZ); Rob Portman (R-OH); and Patrick J. Toomey (R-PA).

⁵⁷ For more information regarding Senate Ethics, see <http://ethics.senate.gov/downloads/pdffiles/manual.pdf>. For more information regarding House Ethics, see <http://ethics.house.gov/Default.aspx>.

Staffing and Funding⁵⁸

The co-chairs jointly are to hire a staff director as well as other staff for the committee. The co-chairs are also empowered to fix the compensation of staff “within guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate.”⁵⁹ Staff of the committee must comply with ethics rules of the Senate.⁶⁰ The BCA directs federal agencies to “provide technical assistance” if requested in writing by the co-chairs.⁶¹

Funding for the committee is provided equally from House and Senate appropriations accounts. The committee is “authorized to incur expenses in the same manner and under the same conditions as the Joint Economic Committee.”⁶²

Development of the Joint Committee Recommendations

The Budget Control Act requires the joint committee to hold its first meeting no later than September 16, 2011. The committees of the House and Senate may submit recommendations regarding deficit reduction to the joint committee, for which the BCA establishes a deadline of October 14, 2011. The act neither requires committees to submit recommendations nor requires the joint committee to consider the recommendations. Generally, however, both chambers rely on the expertise of committees with jurisdiction over policy matters, and ultimately, of course, the joint committee proposal can succeed only with the support of a numerical majority in both chambers.

The joint committee is expected to develop a report of its findings and recommendations as well as legislative language to carry out the recommendations. The report is required to contain a cost estimate prepared by CBO, and the legislation is required to include a “statement of the deficit reduction achieved by the legislation over the period of fiscal years 2012 to 2021.”⁶³ The report may contain supplemental, additional or minority views, provided that a joint committee member gave notice of the intent to submit such views at the time of the vote on the report and submitted the views in writing to the committee staff director within 3 calendar days of the vote. The BCA places no other requirements on the content of the report or on the legislative language.⁶⁴ It could recommend changes to revenue, spending, or both; it might even propose new budget enforcement mechanisms.

⁵⁸ This section authored by Ida A. Brudnick, Analyst on the Congress. Questions concerning congressional staff and funding for the committee should be directed to her at 7-6460.

⁵⁹ Section 401(c)(1). These may include, for example, rules and laws pertaining to pay ceilings, pay dates, the Congressional Accountability Act, financial disclosure, gifts, conflicts of interest, and political activities. For additional information, see the Senate Rules at <http://rules.senate.gov/public/index.cfm?p=RulesOfSenateHome>, and the Senate Ethics Manual at <http://ethics.senate.gov/downloads/pdf/files/manual.pdf>.

⁶⁰ Section 401(c)(2). For more information regarding Senate Ethics see <http://ethics.senate.gov/downloads/pdf/files/manual.pdf>. For more information regarding House Ethics, see <http://ethics.house.gov/Default.aspx>

⁶¹ Section 401(b)(5)(G).

⁶² Section 401(b)(5)(B). This section refers to authorized expenses of the Joint Economic Committee under 15 U.S.C. 1024(d), which addresses the employment and compensation of personnel; cost of stenographic services; and utilization of Government services and private research agencies.

⁶³ Section 401(b)(3)(B)(i).

⁶⁴ Under Section 401(b)(3)(B), any change to House Rules or the Standing Rules of the Senate proposed in either the report or the legislative language “shall be considered as merely advisory.”

The joint committee must vote on proposed legislative language as well as an accompanying report by November 23, 2011. If the committee does not vote by that date, no legislation will be eligible for consideration under the expedited procedures of the BCA. Support from a majority of the joint committee, or seven members if no vacancies, is necessary to approve the report and the legislative language. If the language and report are approved, both must be transmitted to the President, Vice President, Speaker of the House, and majority and minority leaders of both chambers by December 2, 2011.

Procedures for the Operation of Joint Committee Meetings

Title IV of the Budget Control Act also establishes several rules concerning the operation of joint committee meetings and hearings. Some of these rules resemble the existing standing rules of each chamber; others are unique to the joint committee.

The BCA states that a quorum of the joint committee, or the number of members required to be present for the conduct of business, is seven. This is the minimum number of members who must be present at any vote or any meeting of the committee, including hearings. If seven members are not present, then presumably any member of the committee could make a point of order, under the BCA, that a quorum is not present. If the member presiding determined that a quorum was not present, and the joint committee could not establish a quorum, the committee presumably would adjourn. Most committees of the House and Senate have lower quorum requirements, often just two members, for the receipt of testimony, and often one-third for business meetings other than the vote to report. The BCA also precludes “proxy voting,” or the practice, common in the Senate but forbidden by House rules, of allowing another member of a committee (usually the chair or ranking member) to cast a vote for a member who is not present. Furthermore, the agenda for any meeting must be made available to all members of the joint committee at least 48 hours ahead of time.

The BCA grants the joint committee the authority to conduct hearings, including the power to require witness attendance and submission of documentation. The authority is similar to that granted to House committees in House Rule XI clause 2(m)(1) and to Senate committees in Senate Rule XXVI, paragraph 1. The statements of any witnesses appearing before the joint committee must be submitted in writing two calendar days prior to the hearing, unless the co-chairs waive the requirement. Many standing committees rules in both chambers require witness testimony to be submitted two days in advance, longer than the one day required by the Senate (Rule XXVI, paragraph 4(b)) and more specific than the House rule (House Rule XI, clause 2(g)(4) which states that committees shall require written statements in advance). Finally, the co-chairs must publicly announce any hearings seven days in advance, unless they determine there is good cause to provide less notice. The hearing notice requirement is similar to the week required under House and Senate rules (House Rule XI, clause 2 (g)(3) and Senate Rule XXVI, paragraph 4).

The joint committee cannot vote on the question of approving the report or legislative language unless CBO cost estimates mentioned above have been available to its members for at least 48 hours. After any such vote, the report, legislative language, and record of the vote must “promptly”⁶⁵ be made available to the public.

⁶⁵ Section 401(a)(3)(B)(v).

All other regulations concerning the internal operations of the committee will be established by the joint committee itself. Under House rules, the joint committee is required to adopt written rules of procedure.⁶⁶ It is not clear what effect a House-only rule could have on a bicameral entity, but, if the House rule is followed, the joint committee will meet in public to consider its rules (unless a majority agree by recorded vote to close the meeting).⁶⁷

Expedited Procedures for Consideration of the Joint Committee Bill

Introduction and Referral of Joint Committee Bill in Both Chambers

If the joint committee transmits its report and proposed legislative language, the Budget Control Act requires the House majority leader (or his designee) and the Senate majority leader (or his designee) to each introduce the proposed language, without change, as a bill. The leaders (or designees) will introduce the legislation “by request,” which signals that the act of introduction is not necessarily a personal endorsement of the bill. Two bills will therefore be introduced in Congress, with identical text, but with different numbers (one will be an S. numbered bill and the other an H.R. numbered bill). The House and Senate can then each initially consider its own bill.⁶⁸ To meet the Constitutional requirement that both chambers agree to the same legislative measure with the same text, the act provides a means (described in more detail below) for one chamber to vote on final passage of the bill received from the other chamber instead of its own bill. The Constitution also requires that bills affecting revenues originate in the House, and for that reason Section 402(e)(2) ensures that if the joint committee bill contains revenue provisions, it will be the House bill that is eventually presented to the President.

In the Senate, the majority leader or his designee is to introduce the legislative language as the joint committee bill on the first calendar day that the Senate is in session after the joint committee proposal is submitted. The BCA provides for joint referral of the legislation to all committees of jurisdiction. This procedure contrasts with regular Senate practice, under which legislation is, with few exceptions, referred to just one committee, the one with jurisdiction over the subject matter predominant in the bill (Senate Rule XVII, paragraph 1), or, if the bill contains any revenue provisions, typically just to the Committee on Finance. Any committee to which the bill is referred is required to report it without amendment by December 9, 2011; any committee that fails to report by that time will be automatically discharged and the bill will be placed on the Senate legislative calendar, where it is available to be taken up by the full chamber. In this way, the BCA appears to mandate referral while also preventing any committee from blocking floor consideration.⁶⁹

⁶⁶ House Rule X, clause 10(b) requires that any joint committee comply with House Rule XI, clause 2(a).

⁶⁷ Clause 2(a) of House Rule XI (which Rule X(10)(b) appears to require to apply to joint committees) states that standing committee rules may not be inconsistent with House rules and directs standing committees to incorporate all of House Rule XI, clause 2 into committee rules “to the extent applicable.” Clause 2 of House Rule XI requires that, among other things, meetings be open to the public and that a committee keep a substantially verbatim account of its proceedings.

⁶⁸ The BCA provides that if a bill is not introduced or considered in the Senate, and if the House has passed a Joint Committee bill, then that House-passed bill can be considered in the Senate under the expedited procedures described in the act (Section 402 (f)(1)).

⁶⁹ Regular Senate procedures provide a method for any single Senator, by taking certain actions on different days in the Senate, to have a bill or joint resolution placed directly on the calendar instead of being referred to committee. For a full explanation, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by (continued...)

In the House, the majority leader or his designee is to introduce the proposed language as the joint committee bill on the first legislative day⁷⁰ after the joint committee proposal is transmitted. The bill will be referred under regular House rules by the Speaker to every committee having jurisdiction over a provision of the bill. Each such committee can report the legislation—favorably, unfavorably, or without recommendation—but cannot report it with amendment and are required to report by December 9, 2011. The BCA creates a privileged motion by which the House could discharge any committee that does not report by the deadline, although general rules also provide the House majority with other means to bring the bill to the floor.

Senate Floor Action

The Senate could consider a bill introduced pursuant to the Budget Control Act under special procedures that differ considerably from general Senate rules. Decision-making in the Senate is shaped by the ability of individual Senators to “filibuster,” or to take actions to prevent (or delay) a matter from coming to a vote. To get to a vote on a question in the Senate can require either the consent of every single Senator, or the cloture process, which itself can be time-consuming. A cloture motion is not voted on until two days of session after it is filed. If cloture is successfully invoked by a vote of three-fifths of Senators duly chosen and sworn (60 Senators if there is no more than one vacancy), then consideration of the question can continue for up to 30 additional hours. The time required for the cloture process can be compounded since getting to a final passage vote on a bill might require a successful cloture process on several questions: for example, on the question of taking up the bill, on a major amendment to the bill, and on the bill itself.⁷¹

The special procedures established in the Budget Control Act are discussed in detail below, but in general they can be understood to expedite the Senate floor process by providing that the bill be taken up without debate and by imposing a time limit on consideration of the bill, thereby avoiding the need to invoke cloture on any question.

Privileged for Consideration

Under the Budget Control Act, a joint committee bill could be promptly brought before the Senate. Once a qualifying bill is on the Senate calendar, the majority leader (or his designee) can move to proceed to the bill. After the bill has been on the calendar for two days of session, any Senator can move that the Senate proceed to the bill. In either case, the motion to proceed to the bill is not debatable and a simple majority vote is all that is needed to take up the bill. If past practice on taking up other measures privileged for consideration is any guide, the Senate might reach a consensus to begin consideration of the bill and not conduct a roll call vote on the motion to proceed.⁷² The BCA further allows multiple opportunities for proponents to propose that the

(...continued)

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⁷⁰ Ordinarily, legislative days coincide with calendar days that the House is in session. A “legislative day” begins when the House convenes after an adjournment and ends when the House adjourns.

⁷¹ For more information, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Richard S. Beth, Valerie Heitshusen, and Betsy Palmer.

⁷² More specifically, consideration of the Joint Committee bill could begin either when the motion to proceed was made and agreed to by voice vote or when the Senate agreed to take up the measure by unanimous consent.

bill be taken up; even if the Senate disagrees to one motion to proceed to the joint committee bill, additional such motions could be offered and would not be subject to debate.

This BCA procedure differs from regular Senate rules, under which most motions to proceed are debatable. The ability to take up a matter without debate is potentially significant in the Senate. If there is opposition to calling up a bill, the Senate might need to go through the cloture process, as described above, even to reach a vote on the motion to proceed to the bill.

The Budget Control Act addresses additional motions and actions to help ensure that the Senate decide on the question of taking up the bill without delay. It precludes motions to postpone as well as motions to reconsider the vote, motions that if allowed could potentially lead to additional time-consuming roll call votes. It also prevents any Senator from making a point of order against consideration of the joint committee bill. In addition, the bill is apparently given special standing in relation to pending matters on which cloture has already been invoked. Under the BCA, the motion to proceed is in order “Notwithstanding Rule XXII” (the cloture rule), suggesting that perhaps even if the Senate is considering a matter on which cloture has been invoked, which would ordinarily require consideration until disposed of, the motion to proceed to the joint committee bill would be in order.

Privileged for Disposition

If the motion to proceed to the joint committee bill is agreed to, then under the BCA it “shall remain the unfinished business until disposed of.”⁷³ This means that, absent unanimous consent, the Senate cannot turn to other legislative or executive business. A motion to proceed to another bill or to enter executive session to consider a nomination, for example, would not be in order. Nor would consideration of the joint committee bill be interrupted by the maturation of a cloture motion filed on a different pending matter two days of session before the joint committee bill was taken up. The bill itself is also protected from any points of order.

Under the BCA, no amendments can be proposed to the joint committee bill. Senators can debate the bill, but they cannot propose changes to it. This is a departure from regular Senate procedure, under which Senators can offer amendments and, in fact, can offer them on any topic under most circumstances. Consideration of the bill under the BCA is limited to a maximum of 30 hours.⁷⁴ All the time spent on consideration of the bill, including time spent debating related motions, voting, and in quorum calls, would count against the 30 hours. In this respect, the expedited procedure would operate similarly to the 30-hour time cap on consideration after cloture is invoked on a bill.⁷⁵

⁷³ Section 402(c)(2).

⁷⁴ The BCA also makes in order a nondebatable motion to further limit debate on the joint committee bill, which requires a three-fifths vote for approval (normally 60 Senators). The time spent considering the bill could also be less than 30 hours if Senators controlling time “yield back” time or if the Senate modifies the terms of consideration by unanimous consent.

⁷⁵ It *would not* operate the way the time limitation works on consideration of a budget resolution or budget reconciliation bill. In both of those cases, the time limit is on “debate,” not “consideration,” so that at the conclusion of the statutory time limit it is still possible to offer (but not debate) amendments and other motions. This can lead to what has been termed a “vote-a-rama,” when the Senate votes on amendments one after another, with a discussion of the amendment (usually just two minutes of it) allowed only by unanimous consent. For more information see CRS Memorandum to the Senate Budget Committee, “Budget Resolutions and Reconciliation Legislation in Calendar Years 1987-2008: Amendments Considered Before and After the Statutory Limit on Debate Expired,” by Bill Heniff Jr. (U.S. (continued...))

The Budget Control Act, however, also provides that the 30 hours be controlled by the party leaders, which is different from proceedings under cloture. Under controlled time, Senators are yielded blocks of time for debate from party leaders or bill managers (or their designees). Thus, for consideration of the joint committee bill, each party leader would be granted 15 hours, and the party leader would then decide who could speak, for how long, and in what order.⁷⁶ Similar terms apply, under the Congressional Budget Act of 1974, during consideration of a budget resolution or a reconciliation bill in the Senate. Frequently, time is also controlled in the Senate by unanimous consent agreements. Under the regular rules of the Senate, however, time is not controlled, there is no limit placed on how long a Senator can speak, and Senators speak in the order they seek recognition from the presiding officer.

In an apparent effort to streamline Senate procedures, the BCA includes several other provisions restricting the motions that can normally be made or the length they could otherwise be debated. Under the BCA, in addition to the prohibition on amendments, it is not in order to offer a motion to postpone or a motion to recommit the bill. Appeals from decisions of the chair relating to Senate rules are not debatable under the act. Any other motions that might be offered or appeals that might be made are debatable for just one hour each (included under the total cap of 30 hours) equally divided between those favoring and opposing the motion.

When the time for consideration of the joint committee bill has expired, then under the BCA the Senate is to vote on passage of the bill. Just as under regular Senate rules, passing the bill would require support from a simple majority of Senators voting, or 51 if all Senators vote and there are no vacancies. At the request of any Senator, there could be a live quorum call prior to the final passage vote. The purpose of allowing a quorum call presumably is to provide an opportunity to bring Senators to the floor for the vote, if necessary. The vote on passage is to occur no later than December 23, 2011; after that time, the special procedures for consideration of the bill will not longer apply.⁷⁷

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Congress, Senate Committee on the Budget, *Senate Procedures for Consideration of the Budget Resolution/Reconciliation*, 110th Cong., 1st sess., February 12, 2009, S.Hrg. 111-106 (Washington: GPO, 2009), pp. 42-62.) (Memorandum is also available at Senate Budget Committee website, <http://budget.senate.gov/democratic/>.)

⁷⁶ The Budget Control Act does not specify how time used for quorum calls or voting would be charged. Because the BCA states that the 30 hours “shall be equally divided between the majority and minority leaders or their designees” (Section 401(c)(3)), one possible interpretation is that the time used for votes and the time for quorum calls will be charged equally to each side. Under the precedents of the Senate, if the absence of a quorum is suggested when the Senate is operating under time controlled pursuant to a unanimous consent agreement, the time consumed by the quorum call is charged against the side noting the absence of a quorum (Floyd M. Riddick and Alan S. Frumin, *Riddick’s Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), [Hereafter *Riddick’s Senate Procedure*], p. 1066). This is also how time for quorum calls is charged when legislation is being considered under the Budget Act of 1974 (e.g., a budget resolution or a reconciliation bill). In both cases, unanimous consent is often obtained to charge the time equally to both sides. Under the Budget Act of 1974, time spent voting is not charged against the debate time provided.

⁷⁷ Section 402(c)(5) and Section 402(g)(2) of the BCA.

House Floor Action

Under the Terms of the Budget Control Act

The BCA creates special procedures that ensure that the House could bring the Joint committee bill to the floor even if the committees of jurisdiction and party leadership do not seek its consideration. If a committee does not report by December 9, 2011, a Member could make a privileged motion to discharge the committee from consideration. The motion is debatable for 20 minutes, and if it is agreed to the measure would be immediately pending before the House. Furthermore, if the committee or committees do report,⁷⁸ any Member could make a non-debatable motion that the House proceed to consider the joint committee bill.

Once the House has agreed to bring the bill to the floor, the BCA procedures provide that the House is to consider the legislation for two hours without an opportunity for amendment and then vote on final passage. All points of order against the bill and against its consideration are considered waived. Under ordinary House procedures the minority party is generally guaranteed a chance to offer a motion to recommit the bill before final passage,⁷⁹ but no such opportunity is available under the statutory procedures. One motion is in order to limit debate time further.

The BCA provides a procedure for any numerical majority to take up and pass a bill without delay, but it also precludes individual members or minority factions from slowing down the business of the House by offering repetitive motions. For example, once one motion to discharge a committee is disposed of (perhaps by a motion to table—or kill—the discharge proposal) another such motion is not in order. Similarly, if the House disposes of a motion to proceed to the joint committee bill, perhaps because a numerical majority decline to take it up, further motions to proceed to the joint committee bill are not in order. No motions to reconsider votes are permitted.

The House, like the Senate, is required under the BCA to pass the bill by December 23, 2011. If the bill is not passed by both chambers at the end of that day, then it cannot be considered under the expedited procedures of the BCA.⁸⁰

Option to Consider the Bill under the Terms of a Special Rule

The House has the option, however, of considering the joint committee bill under a special rule reported by the Rules Committee in the same way that other major legislation is brought before the House for consideration.⁸¹ When the House considers measures eligible for expedited procedures under other statutes, such as the Congressional Budget Act of 1974 and the Trade Act of 1974, it typically does so not under the statutory expedited procedures but under a special rule.

⁷⁸ If the committees are discharged not through the BCA privileged motion but through the regular discharge process, the same proceedings apply as if the measure was reported. For more information on the House discharge rule, see CRS Report 98-394, *Discharge Procedure in the House*, by Richard S. Beth.

⁷⁹ For more information, see CRS Report 98-383, *Motions to Recommit in the House*, by Betsy Palmer.

⁸⁰ Section 402(b)(4) and Section 402(g)(2) of the BCA.

⁸¹ Section 404(2) of the Budget Control Act specifically states that the procedures are established “with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.” A special rule is one of the common ways in which the House implements this constitutional power.

The House might choose this form of consideration in order to customize the terms of consideration (debate time could differ, for example, from the two hours provided under the BCA). It also might choose to bring the measure up by special rule in order to avoid procedural steps created by the BCA that are uncommon in current House practice. In fact, one reason to use a special rule might be because it is a manner of proceeding with which all Members of the House are familiar.

Even if the House does bring up the joint committee bill by rule, it is unlikely that amendments to the bill will be made in order unless there is reason to expect the Senate could expeditiously consider the measure under its regular rules. If the House were to amend the bill, the bill would be ineligible for expedited consideration in the Senate. The House-amended text would be different from that recommended by the Joint committee, and thus it would no longer meet the definition of a joint committee bill under the BCA.⁸² If prior practice under statutory expedited procedures is a guide, it is also unlikely that a motion to recommit would be made in order if the bill were brought up by special rule.⁸³ Since the motion to recommit with instructions is effectively an opportunity to amend a bill, a successful motion to recommit with instructions would make the bill ineligible for expedited consideration in the Senate.

Passage Vote and Subsequent Action

Because the joint committee bills introduced in each chamber are both required to consist of the legislative text proposed by the joint committee, and because no amendments are in order in either chamber, if each chamber passes its bill, both measures will be identical. No conference committee or other means of resolving policy differences between the chambers will be necessary. Under the Constitution, however, it is necessary for both chambers to pass the same measure. In other words, even if each chamber passes its own numbered bill (for example, the House passes H.R. 2345 and the Senate passes S. 6789), and the texts of those two bills are identical, either the House must pass the Senate bill or the Senate must pass the House bill. Under the Budget Control Act, Congress will meet this requirement by providing that the joint committee bill that passes a chamber first will be the bill that is sent to the President.

More specifically, it provides that if the Senate receives the House joint committee bill before it has passed its own joint committee bill, the Senate will consider its own bill up until the point of final passage. When it is time to vote on final passage, the vote will occur on the identical House bill. If the Senate passes its bill before it receives the House companion measure, then it will send its bill to the House, and the House will vote on the Senate bill. If the joint committee bill has any

⁸² The Rules Committee could report a special rule permitting amendments to the Joint Committee bill. Presumably, however, the amended legislation would not be eligible for expedited consideration in the Senate, as it would fail to meet the definition of “Joint Committee Bill” in Section 401(a)(2), “a bill consisting of the proposed legislative language of the joint committee” recommended and introduced pursuant to the BCA.

⁸³ House Rule XIII, clause 6(c) prohibits the Rules Committee from reporting most resolutions that would prevent a motion to recommit a bill or joint resolution offered by the minority leader or his designee. In the case of a Joint Committee bill, however, a reference to the statutory prohibition in the special rule could prevent the motion to recommit without violating House Rule XIII, clause 6(c). For example, special rules for trade agreement implementation bills in recent Congresses have prohibited the motion to recommit by stating that “Pursuant to” the relevant section of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion. See H.Res. 801, 110th Congress; H.Res. 386, H.Res. 583, and H.Res. 925, 109th Congress; and H.Res. 329, H.Res. 712, and H.Res. 738, 108th Congress.

provisions affecting revenue, however, then the Senate will vote on the identical House bill when received, regardless of which chamber has passed its bill first.

If the President vetoes the joint committee bill, each chamber could override the President's veto with a two-thirds vote.⁸⁴ The BCA limits debate on any veto message received in the Senate to one hour, equally divided between the majority and

minority leaders or their designees. Under regular Senate rules, the question of overriding the veto, and some other available motions that could displace consideration of the veto message, are subject to extended debate. The statutory debate limitation could allow the Senate to more quickly get to a vote on the question of overriding the veto than might be possible under the regular rules. In the House, the veto message would be considered under its regular procedures normally permitting one hour of debate. The deadline for enactment—passage by both chambers and signature by the President—to prevent an automatic spending reduction process is January 15, 2012.

Budget Goal Enforcement: Spending Reduction Trigger

Section 302 of the Budget Control Act of 2011 establishes an automatic process to reduce spending, beginning in 2013, unless a joint committee bill reducing the deficit by at least \$1.2 trillion over the period covering FY2012-FY2021 is enacted by January 15, 2012.⁸⁵ The process presumably is intended to encourage agreement on such deficit reduction, either by enacting the joint committee proposal by the deadline at the end of 2011, or possibly by enacting other legislation (through existing congressional procedures) by the beginning of 2013, when the automatic process would begin to make reductions. In effect, if Congress and the President do not act to reduce the deficit by \$1.2 billion through the enactment of legislation, then spending reductions are automatically made, unless Congress and the President agree by statute to repeal or modify the automatic process.

The spending reduction process is triggered automatically if legislation introduced by the joint committee is not enacted, or if it is enacted, but it does not reduce the deficit by at least \$1.2 trillion over the period covering FY2012-FY2021. Therefore, if a joint committee bill is enacted, but it reduces the deficit by only \$900 billion, for example, the automatic process would still be triggered to make up the remainder.

If triggered, the automatic spending reduction process entails four key steps:

- the statutory discretionary spending limits for FY2013-FY2021 are revised, by redefining the security and nonsecurity categories and by extending such categories through FY2021;
- the amount of spending reduction required for each year is calculated and divided equally between two categories—defense and nondefense;

⁸⁴ See CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

⁸⁵ Section 302 of the BCA amends the Balanced Budget and Emergency Deficit Control Act (BBEDCA) by adding a new Section 251A.

- the annual amount of spending reductions required each year in each of these categories is further divided proportionally between discretionary appropriations and direct spending programs (excluding certain programs and activities) within each category; and
- the spending reductions required in each year (FY2013-FY2021) are achieved through a combination of sequestration and the downward adjustment of the revised discretionary spending limits.

Each of these steps is described in detail below, to explain how the spending reductions would be achieved in the event the automatic process is triggered.

Revising Statutory Limits on Discretionary Spending

First, the statutory discretionary spending limits for FY2013-FY2021, established under Section 101 of the BCA, are revised: (1) to redefine the security and nonsecurity categories; and (2) to set annual limits for each of these categories through FY2021.⁸⁶ The revised categories basically divide the original discretionary spending limits between defense and nondefense accounts; at this point, the total amount of discretionary spending allowed under the limits is not yet reduced (see **Table 2**). In contrast to the original discretionary limits under Section 251 of the BBEDCA, as amended by the BCA, the security category is revised to include discretionary appropriations classified as budget function 050 (national defense) only.⁸⁷ The nonsecurity category is revised to include all other discretionary appropriations; the other discretionary appropriations not in budget function 050 (“National Defense”) included in the original security category are essentially transferred to the revised nonsecurity category. By setting annual limits for the revised categories through FY2021, the revised limits extend the “firewall” between different spending categories beyond the original two-year firewalls (for FY2012 and FY2013). Both changes to the discretionary spending limits presumably facilitate the equal split of the required spending reduction between defense and nondefense accounts over the nine years through FY2021, as required in the next steps.

⁸⁶ For the purposes of the following explanation and this report, it is assumed that the new spending limits will be applied using the definitions of “revised security category” and “revised nonsecurity category” in section 251A(1). The plain text of the statute, however, omits the term “revised” from the provisions of section 251A(2), using instead the terms “security category” and “nonsecurity category.” As a result, it may be possible to question whether the discretionary spending limits required by section 251A will, if necessary, actually be applied in a manner consistent with the provision’s apparent goals.

⁸⁷ For a brief description of the budget functional categories, see CRS Report 98-280, *Functional Categories of the Federal Budget*, by Bill Heniff Jr. For further information, see Government Accountability Office, *Budget Function Classifications: Origins, Trends, and Implications for Current Uses*, GAO/AIMD-98-67, February 1998.

Table 2. Revised Statutory Limits on Discretionary Spending if Automatic Spending Reduction Process is Triggered

(in billions of budget authority)

Fiscal Year	Original Limits	Revised Limits	
		Revised Security Category	Revised Nonsecurity Category
2013	\$1,047 ^a	\$546	\$501
2014	\$1,066	\$556	\$510
2015	\$1,086	\$566	\$520
2016	\$1,107	\$577	\$530
2017	\$1,131	\$590	\$541
2018	\$1,156	\$603	\$553
2019	\$1,182	\$616	\$566
2020	\$1,208	\$630	\$578
2021	\$1,234	\$644	\$590

Source: Sections 251(c) (relating to original limits) and 251A(2) (relating to revised limits) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25).

Notes: The revised security category includes discretionary appropriations classified as budget function 050 ("National Defense") only; the revised nonsecurity category includes all other discretionary appropriations. Under the automatic spending reduction process, revised limits for FY2014-FY2021 are subsequently adjusted downward each year by an amount based on the calculation specified in the BCA. The revised limits for FY2013 are not adjusted downward; instead, discretionary appropriations for FY2013 are sequestered (i.e., cut) by the calculated amounts. After the sequestration, it appears that subsequent discretionary appropriations for FY2013 presumably could be provided, as long as the total within a category for the year did not exceed a revised limit.

- a. For FY2013, the original spending limits are divided into the two separate categories of security (\$686 billion) and nonsecurity (\$361 billion); for definitions of original security and nonsecurity categories, see "Statutory Limits on Discretionary Spending" section, above.

Calculating the Spending Reductions

Second, OMB is required to calculate the amount of deficit reduction required to be achieved in the defense and nondefense budget functions each year through this automatic process. The calculation involves five steps: (1) begin with \$1.2 trillion (the budget goal); (2) subtract the amount of deficit reduction in the joint committee bill, if enacted;⁸⁸ (3) subtract 18% of the

⁸⁸ As noted, OMB is tasked with this calculation, and therefore, it appears that OMB would have sole responsibility in determining the amount of deficit reduction achieved in the Joint Committee bill, if enacted. However, Section 401(b)(3)(B)(i)(II) of the BCA requires that the bill itself include a statement of deficit reduction. While the BCA does not explicitly require OMB to use this statement in determining the amount of deficit reduction achieved by the bill, OMB could use it by choice, or the statement in the bill could be written explicitly to require OMB to use it. If the statement does not include such a specific requirement and OMB itself determines the amount of deficit reduction achieved in the bill, presumably it would make such determination in relation to the baseline as calculated under Section 257 of the BBEDCA, which prescribes generally a current-law baseline. For a brief description of baselines in the budget process, see CRS Report 98-560, *Baselines and Scorekeeping in the Federal Budget Process*, by Bill Heniff Jr.

difference, attributable to debt service; (4) divide by nine, to allocate the spending reductions equally across the nine FY2013-FY2021; and (5) divide by two, to allocate the spending reductions between defense and nondefense functions. Again, this calculation provides the amount of spending reductions required from each of the two categories of defense and nondefense for each fiscal year covering FY2013-FY2021.

Table 3 provides two hypothetical illustrations of the calculations to be required, if the automatic process is triggered. In the first illustration, for example, \$900 billion of deficit reduction is achieved through the enactment of a joint committee bill. In this case, the automatic process would require \$13.7 billion each in spending reductions within the defense function and within the total of all other budget functions (nondefense functions) each year.

Table 3. Hypothetical Calculations of Reductions Required in Defense and Nondefense Spending if Automatic Spending Reduction Process is Triggered

Description of Calculation	Hypothetical Illustration #1: Enactment of Joint Committee Bill Reducing Deficit by \$900 Billion	Hypothetical Illustration #2: Joint Committee Bill Is Not Enacted (i.e., No Deficit Reduction)
Budget goal	\$1,200 billion	\$1,200 billion
Subtract amount of deficit reduction in joint committee bill, if enacted	\$1,200 billion-\$900 billion = \$300 billion	\$1,200 billion-\$0 billion = \$1,200 billion
Multiply difference by 18%, to determine amount attributable to debt service	\$300 billion * 0.18 = \$54 billion	\$1,200 billion * 0.18 = \$216 billion
Subtract the 18%, to account for debt service savings	\$300 billion - \$54 billion = \$246 billion	\$1,200 billion-\$216 billion = \$984 billion
Divide by 9, to determine spending cuts for each year, FY2013-FY2021	\$246 billion / 9 = \$27.3 billion	\$984 billion / 9 = \$109.3 billion
Divide by 2, to allocate between defense and nondefense spending	\$27.3 billion / 2 = \$13.7 billion	\$109.3 billion / 2 = \$54.7 billion

Source: Formula provided in Section 251A(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25). Amounts of deficit reduction resulting from joint Committee bill are hypothetical.

The third step is that the annual amount of spending reductions required in each of these categories is further divided proportionally between discretionary and nonexempt direct spending within each category.⁸⁹ These calculations, as set forth in the Budget Control Act, yield four

⁸⁹ In order to determine the proportions, the calculation specified in the BCA uses the revised spending limits for discretionary spending and the OMB's baseline level of nonexempt accounts for direct spending. That is, the discretionary spending amount apparently includes programs and accounts exempt from any sequestration, while the direct spending amount does not. In addition, it is unclear whether the revised spending limit used in the calculation would include the adjustments provided for in Section 251(b) of the BBEDCA, as amended by the BCA (e.g., for discretionary appropriation for Overseas Contingency Operations/Global War on Terrorism). While the formula in the act does not explicitly specify whether or not the adjustments are included, the calculations are made on a date after which the adjustments would have been made to the limits (January 2, 2013, for FY2013, and when the sequestration preview reports are issued, for FY2014-FY2021).

amounts of required spending reductions, respectively in (1) defense discretionary appropriations, (2) defense direct spending, (3) nondefense discretionary appropriations, and (4) nondefense direct spending.⁹⁰

Implementing the Required Spending Reductions

Finally, the required spending reductions are achieved each year (FY2013-FY2021) through a combination of a sequestration process⁹¹ and the downward adjustment of the *revised discretionary spending limits*. Specifically, the reductions required are implemented in three parts: (1) for discretionary spending for FY2013, a sequestration of budgetary resources in that year; (2) for discretionary spending for FY2014-FY2021, a downward adjustment of the *revised discretionary spending limits*; and (3) for direct spending, a sequestration of budgetary resources in each year from FY2013 through FY2021.

In general, the sequestration process involves the cancellation of budgetary resources (i.e., spending cuts) in nonexempt programs and accounts.⁹² Certain programs and activities are exempt from any sequestration.⁹³ Such programs include Social Security, Medicaid, and federal retirement and disability programs, among many others, as provided by Section 255 of the BBEDCA (as restored by Section 104 of the BCA).⁹⁴ In addition, the sequestration process is governed by general and special rules, as provided in the BCA, Section 6 of the Statutory Pay-As-

⁹⁰ The amounts are calculated at the beginning of each year. Therefore, the amounts for each of the four categories may not be the same for each year because the proportions between discretionary and direct spending within each category, especially the nondefense category, may change. For example, if discretionary appropriations decline as a proportion of nondefense spending, then the amount of reductions required in discretionary appropriations will decline.

⁹¹ The sequestration process was first established in 1985 by the Balanced Budget and Emergency Deficit Control Act (Title II of P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act. Initially, the sequestration process was tied to annual maximum deficit targets, declining to zero by a date certain, established by the law. If the budget deficit exceeded those target levels (plus a margin-of-error amount in some years), automatic across-the-board spending cuts would be triggered. The process was intended to provide an incentive to Congress and the President to reduce the deficit through legislative action to avoid an automatic sequestration. Since then, the law has been amended and modified several times. Notably, the Budget Enforcement Act (BEA) of 1990 (title XIII of P.L. 101-508) changed the focus of the sequestration process. Instead of maximum deficit targets, the BEA of 1990 tied sequestration to new statutory spending limits and PAYGO rules. The change was intended to hold Congress and the President accountable for projected budget outcomes that would result from new legislation, rather than the level of the deficit which could be affected by factors beyond their direct control, such as economic growth, inflation, and demographic changes. Most recently, prior to the enactment of the BCA, the Statutory Pay-As-You-Go Act of 2010 (Title I of P.L. 111-139) amended the BBEDCA to tie sequestration to a revised PAYGO rule. For further information on the legislative history of the sequestration process, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch, and CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr. (The latter report was written by former CRS Specialist Robert Keith.)

⁹² “Budgetary resources” include new budget authority, unobligated balances, direct spending authority, and obligation limitations, as defined in Section 250(c)(6) of the BBEDCA.

⁹³ Because the BCA is an amendment to the BBEDCA, and because it repeals the BBEDCA’s expiration date, it would appear that the exemptions provided in Section 255 of the BBEDCA would apply to any sequestration order. The BCA explicitly indicates as much in relation to the sequestration process involving direct spending, but does not do so explicitly in relation to the sequestration process involving discretionary appropriations. This different treatment in the legislative language of the BCA may raise some questions about whether or not any discretionary appropriations were intended to be exempted from the sequestration process.

⁹⁴ In addition, the President may exempt any military personnel account or provide for a lower uniform percentage reduction in any such account, provided that he notify Congress of such actions by August 10 and, if a sequestration is required, that other accounts in budget subfunctional category 051 (“Department of Defense-Military”) are reduced by a uniform percentage to offset the amount not reduced.

You-Go Act of 2010 (Title I of P.L. 111-139), and Section 256 of the BBEDCA, including a 2% limit on any reductions in spending for Medicare and for certain health care programs.

The BCA requires OMB to calculate, in the manner specified above, and the President to order a sequestration of nonexempt discretionary appropriations for FY2013, and of nonexempt direct spending for FY2013 and for each year through FY2021. The sequestration for FY2013 is to occur on January 2, 2013, and the sequestrations for subsequent years are to occur on the date the sequestration preview report is issued (i.e., with the President's budget submission).⁹⁵ Generally, under the sequestration process, each nonexempt account is reduced by a uniform percentage necessary to achieve the reductions required.⁹⁶ For example, if for FY2013 hypothetically \$54.2 billion in spending reductions are required in defense discretionary appropriations, and assuming the total amount of nonexempt defense discretionary appropriations is \$546 billion, then each nonexempt account within the defense function would be reduced by 9.9%. Within the nondefense category, the BCA requires that OMB increase the reductions required in discretionary appropriations and nonexempt non-Medicare spending by a uniform percentage to in effect offset the reductions not achieved in Medicare spending as a result of the 2% limit.

Finally, on the date the sequestration preview report is issued (i.e., with the President's budget submission), for each year covering FY2014-FY2021, OMB is required to adjust downward the *revised statutory limits on discretionary spending* for each category by the amount of spending reduction required within each category for that year, calculated in the manner described above. As a result, the spending reductions in discretionary appropriations for FY2014-FY2021 are achieved by further limiting the maximum amount that may be appropriated in each category for each year. In contrast to the spending reductions achieved through sequestration for FY2013, the lower limits for subsequent fiscal years will provide Congress and the President the opportunity to determine the manner in which the reductions are made to each account through the annual appropriations process each year. It is important to note, however, that these newly revised spending limits for each category would be enforced through a sequestration process, as explained in the "Statutory Limits on Discretionary Spending" section, above.

Vote on Balanced Budget Amendment to the Constitution

Requirement for Vote

Section 201 of the Budget Control Act states that the chambers "shall vote on passage of" a balanced budget amendment to the Constitution between September 30 and December 31, 2011.⁹⁷

⁹⁵ On such dates, OMB is also required to provide a report to Congress containing information on the calculations, the adjusted discretionary spending limits, the reductions in nonexempt direct spending accounts, and any other appropriate information.

⁹⁶ In addition, under Section 256(k)(2) of the BBEDCA, the uniform percentage reduction is applied to all programs, projects, and activities within a budget account, as delineated, for accounts included in appropriations acts, in those acts or accompanying reports, and, for accounts not included in appropriations acts, in the most recently submitted President's budget.

⁹⁷ For information on the issue of amending the Constitution to require that the budget of the federal government be balanced, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional* (continued...)

No requirements are placed on the specific content of the proposal to amend the Constitution. The BCA does not specify that the Senate must vote on a House-passed constitutional amendment, nor does it require that both chambers vote on the same constitutional amendment.

The BCA does not impose any procedural consequence if a chamber fails to vote on a balanced budget amendment. Factors besides procedure, however, might be expected to influence the decision to hold a vote. Furthermore, without successful final passage votes on the same measure in both chambers, the BCA precludes one avenue by which the debt limit may be increased by \$1.5 trillion (instead of by \$1.2 trillion). Specifically, if both chambers *approve* a Constitutional amendment by the required two-thirds vote, then the debt limit could be increased by \$1.5 trillion; if one or both chambers do not approve a Constitutional amendment, then it can be increased only by \$1.2 trillion. (Enactment of the joint committee bill is another avenue through which the debt limit could be increased by up to \$1.5 trillion. See the section “Debt Ceiling Increase” above.)

The BCA does not establish any expedited procedures for initial consideration of a Constitutional amendment. If the House were to consider a House-originated Constitutional amendment, it would do so under its regular rules of procedure, possibly under the terms of a special rule or by a motion to suspend the rules. If the special rule permitted amendments they could be adopted by majority vote, but final adoption would require support from two-thirds of Members present and voting. If the Senate were to consider a Senate-originated Constitutional amendment, it also would do so under its regular rules. That would mean it would be brought to the floor by unanimous consent or a motion to proceed. The motion to proceed would be debatable, so bringing it to a vote might require a vote of three-fifths of the Senate to limit debate. The Constitutional amendment itself would also be debatable, which could again require cloture, and amendments could be offered and adopted by a majority of Senators present and voting, but the joint resolution could be agreed to only by two thirds of Senators present and voting.

Expedited Procedure for Consideration of Constitutional Amendment Approved by Other Chamber

Section 202 of the BCA establishes legislative procedures to expedite the consideration by one chamber of a joint resolution approved by the other. To be clear, these procedures will only be used if one chamber approves a Constitutional amendment with the required two-thirds vote. If that happens, then one chamber could use these procedures to consider a measure sent to it by the other.

The BCA provides that if the Senate receives a House-passed joint resolution, it will be referred to the committee of jurisdiction, which is required to report by the fifth session day after the Senate received the joint resolution from the House. If the committee does not report, it will be automatically discharged and the joint resolution will be placed on the calendar, making it eligible to be called up in the full Senate.

The Senate, however, must agree to take up the joint resolution under its regular rules, because the BCA does not affect the procedures for bringing the measure to the floor. The Senate could

(...continued)

Options , by James V. Saturno and Megan Suzanne Lynch.

take up a House joint resolution by unanimous consent or by agreeing to a motion to proceed. While a simple majority could agree to a motion to proceed, the motion is debatable, and therefore the Senate might have to invoke cloture in order to get to a vote on the question of taking up the balanced budget amendment. Cloture requires the support of three-fifths of the Senate (normally 60 Senators) and several days to invoke.⁹⁸ As a result, Senators might not have the opportunity, however, of voting directly on the question of approving a House-passed balanced budget amendment. On the other hand, given that passage of the constitutional amendment has a higher threshold (two-thirds of those present and voting, normally 67 Senators) than cloture, any balanced budget amendment likely to be approved by the Senate could also likely clear this procedural hurdle.

If the Senate chooses to take up a House joint resolution proposing a balanced budget amendment then the BCA establishes special expedited procedures for the consideration of that joint resolution. The measure is to be considered for a total of 20 hours, including time spent in quorum calls and voting. The time would be equally divided between the majority and minority leaders or their designees. No Senator could offer an amendment to the joint resolution, and several other motions that would take the Senate off of consideration of the joint resolution are also precluded. If the Senate has voted to proceed to a House joint resolution, then the final passage vote is to occur immediately after the 20 hours is used or yielded back (except for one quorum call if requested) or no later than the seventh session day after the joint resolution was placed on the calendar.

The BCA also provides a special procedure the House could use to consider a Senate joint resolution proposing a balanced budget amendment, although the House might choose instead to consider the measure under the terms of a special rule or under suspension of the rules. To briefly summarize the special procedures, the BCA provides a method for a majority to take up a Senate-passed joint resolution on the floor and debate it for two hours, equally divided between those opposed and those in favor.⁹⁹ No amendments and no motion to recommit would be in order under the procedures for House consideration outlined in the BCA.

Federal Student Aid Programs

The Budget Control Act of 2011 (BCA; P.L. 112-25) also makes changes to two of the federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329):

- The William D. Ford Federal Direct Loan (DL) program and
- The Federal Pell Grant program.

⁹⁸ For more information on the cloture process, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Richard S. Beth, Valerie Heitschusen, and Betsy Palmer.

⁹⁹ The Senate joint resolution is to be referred to the Committee on the Judiciary, and if the committee has not reported within five legislative days, a motion to discharge the committee is in order and debatable for 20 minutes, equally divided between a proponent and an opponent. If the motion to discharge is agreed to, the House would proceed immediately to consideration of the Joint Committee bill.

Federal Direct Loan Program (Student Loans)

The William D. Ford Federal Direct Loan (DL) program is the primary federal student loan program administered by the U.S. Department of Education (ED).¹⁰⁰ The program makes available loans to undergraduate and graduate students and the parents of dependent undergraduate students to help them finance their postsecondary education costs. Several types of loans are offered through the DL program: Subsidized Stafford Loans and Unsubsidized Stafford Loans for undergraduate, graduate, and professional students; PLUS Loans for graduate students and the parents of dependent undergraduate students; and Consolidation Loans through which borrowers may combine their loans into a single loan. The primary difference between Subsidized and Unsubsidized Stafford Loans is that with Unsubsidized Stafford Loans borrowers are responsible for paying the interest that accrues while they are in school, and during grace and deferment periods, whereas with Subsidized Stafford Loans the interest that accrues during these periods is paid by the government. DL program subsidy costs are mostly funded with mandatory appropriations, and administrative costs are mostly funded with discretionary appropriations.

The BCA eliminates the availability of Subsidized Stafford Loans to graduate and professional students for periods of instruction beginning on or after July 1, 2012, which corresponds to the beginning of award year 2012-13. After that date, graduate and professional students will be able to substitute amounts they previously would have been able to borrow using Subsidized Stafford Loans with Unsubsidized Stafford Loans. According to ED, during award year 2010-11, 1.47 million graduate and professional students borrowed \$10.8 billion in Subsidized Stafford Loans; 1.34 million graduate and professional students borrowed \$15.1 billion in Unsubsidized Stafford Loans; and 0.34 million graduate and professional students borrowed \$6.4 billion in PLUS Loans.

Also, effective for DL program loans first disbursed on or after July 1, 2012, the BCA eliminates the authority of the Secretary of Education to offer one of two repayment incentives to borrowers of DL program loans. At present, two types of repayment incentives are offered:

- Borrowers of Stafford Loans currently receive a 0.5% up-front interest rebate that partially offsets a 1% origination fee; and borrowers of PLUS Loans receive an up-front interest rebate of 1.5% that partially offsets a 4% origination fee. If a borrower who receives an up-front interest rebate fails to make the first 12 monthly loan payments on time, the rebated amount is added back to the borrower's loan principal, increasing the loan amount that must be repaid. The BCA eliminates authority for the Secretary to offer this benefit.
- Borrowers who repay DL program loans using automatic electronic debit currently receive a 0.25 percentage point reduction in their interest rate. The BCA retains authority for the Secretary to offer this benefit.

CBO estimates the changes in the DL program would reduce direct spending by \$9.6 billion over the FY2012-FY2016 period and by \$21.6 billion over the FY2012-FY2021 period. Approximately \$17 billion of these savings would be directed to the Pell Grant program for future use, while \$4.6 billion would go towards deficit reduction.¹⁰¹

¹⁰⁰ For a description of the DL program, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

¹⁰¹ CBO Analysis of the FY2011 Budget Control Act, *Letter to Hon. John Boehner and Hon. Harry Reid*, dated August (continued...)

Federal Pell Grant Program

The Federal Pell Grant program is the single largest source of federal grant aid supporting postsecondary education students.¹⁰² The program provided over \$34.7 billion to approximately 9.5 million undergraduate students in FY2010.¹⁰³

The Pell Grant program is currently funded with three types of spending:

- Annual discretionary appropriations bills that provide most of the funding for the program and typically specify the base discretionary maximum grant level for the program in a given award year;
- Mandatory appropriations provided in “such sums as necessary” for the purposes of funding annual increases to the base discretionary maximum grant level each year, as specified in the HEA, under existing statutory parameters; and
- Additional specific amounts in mandatory appropriations provided in previous legislation¹⁰⁴ that are available for general use for a specific time period and may be used to pay for obligations associated with provisions that primarily affect discretionary spending in the program.

The BCA provides additional mandatory funding for the Pell Grant program for general use in FY2012 and FY2013, as depicted in the last category above. The BCA provides an additional \$10 billion in mandatory funding for FY2012, and an additional \$7 billion in mandatory funding for FY2013, for a total of an additional \$17 billion.¹⁰⁵

These additional appropriations would reduce the amount of discretionary appropriations required in FY2012 and FY2013. Despite the availability of the additional funds provided in the BCA, Congress would need to provide an additional \$1.3 billion over the FY2011 discretionary funding amount to maintain the current award levels and eligibility parameters in FY2012.¹⁰⁶ Congress could also consider revising the program’s award rules, eligibility parameters, and aid levels in order to reduce costs in the program, and therefore, reduce the amount of additional appropriations needed in FY2012. Other than providing additional mandatory funding, the BCA does not make any other changes to the Pell Grant program.

(...continued)

1, 2011. See <http://www.cbo.gov/ftpdocs/123xx/doc12357/BudgetControlActAug1.pdf>.

¹⁰² For a description of the Federal Pell Grant program, see CRS Report R41437, *Federal Pell Grant Program of the Higher Education Act: Background, Recent Changes, and Current Legislative Issues*, by Shannon M. Mahan.

¹⁰³ Taken from data available online from the U.S. Department of Education at <http://federalstudentaid.ed.gov/datacenter/programmatic.html>.

¹⁰⁴ For example, \$13.5 billion in additional mandatory appropriations were provided for general use in the program for FY2011 in the SAFRA Act, passed as part of the Health Care and Education Reconciliation Act of 2010 (HCERA; P.L. 111-152).

¹⁰⁵ Per the HEA, these funds are available on October 1 of each applicable fiscal year and remain available through the end of each succeeding fiscal year. For example, the additional \$10 billion provided for FY2012 will be available for use between October 1, 2011 and September 30, 2013.

¹⁰⁶ Based on estimates provided by CBO in April 2011.

Appendix A. Frequently Asked Questions About the Budget Control Act

How will the spending caps affect a specific program (or department or agency)?

The effect of the limits placed on discretionary spending by the BCA on specific government programs, departments or agencies will be determined later through the regular appropriations process. The spending limits of the BCA are established for two broad categories for FY2012 and FY2013 (“security” and “nonsecurity”) and for one overall discretionary category for FY2014 through FY2021. Congress and the President will decide how to allocate spending within these constraints.

The BCA authorized an immediate increase of the federal debt ceiling. Are subsequent increases contingent upon Congress taking any other action?

No. The BCA authorized an increase of the debt ceiling up to at least \$2.1 trillion. If Congress does not take any other action, the increase up to \$2.1 trillion will occur. Raising the debt ceiling to a higher level, up to a maximum of \$2.4 trillion, is contingent on other action, namely the enactment of a joint committee bill that reduces the deficit by more than \$1.2 trillion or the passage in both chambers of a balanced budget constitutional amendment. Furthermore, Congress can prevent subsequent stages of debt limit increases authorized by the BCA by enacting a “joint resolution of disapproval,” a process expected to require support of two-thirds of each chamber to override a likely veto by the President.

Are there any content requirements for the Joint Committee bill to be considered under the expedited procedures?

To qualify as a joint committee bill under the definition in the BCA, the legislative language recommended by the Committee must include a statement of the deficit reduction achieved over the period of FY2012 to FY2021. Otherwise, the only other requirements the text must meet to be considered under the special procedures are (1) be recommended by a majority of joint committee members through a vote conducted on or before November 23, 2011; (2) be introduced by the House Speaker (or designee) the first legislative day after it is transmitted from the joint committee *or* be introduced by the Senate majority leader (or designee) the first day of session after it is transmitted from the joint committee; and (3) be passed by both chambers by December 23, 2011.

Can the Joint Committee bill contain provisions affecting revenue?

Yes. The BCA does not contain any specific restrictions on the policy content of the joint committee bill. In order to comply with the Constitutional requirement that all bills affecting revenue originate in the House of Representatives, Section 402(e)(2) of the BCA ensures that the

bill sent to the President for his signature will be the “H.R.” version of the joint committee Bill, not the “S.” version.

What happens if the Joint Committee bill does not become law?

If a joint committee bill reducing the deficit by at least \$1.2 trillion over the period covering FY2012-FY2021 is not enacted by January 15, 2012, an automatic process to reduce spending will begin January 2, 2013. The spending reductions are achieved for direct spending through sequestration each year (FY2013 to FY2021). For discretionary spending, the reductions are achieved through sequestration the first year (FY2013). For the other fiscal years (FY2014-FY2021), the discretionary spending reductions are achieved through a downward adjustment of statutory limits on discretionary spending divided into two new categories that reflect defense and nondefense spending. Importantly, some programs, including both Social Security and Medicaid, are exempt from sequestration, and any sequestration of Medicare spending is capped at 2%.

If the automatic spending reduction process occurs because a Joint Committee bill does not become law, how much will spending be cut?

The amounts of spending reductions required each year cannot yet be known. It depends in part on the extent, if any, by which the reductions in the joint committee bill fall short of the \$1.2 trillion goal and in part on spending estimates to be calculated in the future by the Office of Management and Budget (OMB). Furthermore, beginning in FY2014, part of the spending reductions will be achieved through a downward adjustment of the statutory limits on discretionary spending, not by automatic across-the-board spending cuts. For discretionary spending, it will therefore be Congress and the President who later determine the manner in which reductions are made to each account through the annual appropriations process each year.

What programs and activities are exempt from the sequestration process that will occur if a Joint Committee bill does not become law?

The list of exempt programs and activities can be found in Section 255 of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 905). The exempt programs include Social Security, Medicaid, and federal retirement and disability programs, among many others.

What happens if a balanced budget constitutional amendment is not sent to the states?

The BCA does not establish a procedural consequence if the House and Senate do not both pass a balanced budget constitutional amendment by the required two-thirds in each chamber. If the chambers do approve such a constitutional amendment, however, the BCA provides that the debt ceiling could be increased by \$1.5 trillion, instead of by \$1.2 trillion.

Do both chambers have to vote on a balanced budget amendment?

Section 201 of the Budget Control Act states that the chambers “shall vote on passage of” a balanced budget amendment to the Constitution between September 30 and December 31, 2011. In the Senate, to get to a direct passage vote on a constitutional amendment, it might be necessary to secure support from 60 Senators to begin consideration of such a proposal. The BCA does not impose any procedural consequence if a chamber fails to vote on a balanced budget amendment. Factors besides procedure, however, might be expected to influence the decision to hold a vote. Without successful final passage votes on the same measure in both chambers, the BCA does preclude one avenue by which the debt limit may be increased by \$1.5 trillion (instead of by \$1.2 trillion).

My question is not on this list. Do I have to read this whole report to get answers?

No. You can ask your specific questions to the authors of this report or one of several other CRS analysts whose contact information is provided below:

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Appendix B. Timelines for Actions in Expedited Procedures

Table B-1. Joint Committee on Deficit Reduction: Timeline for Actions

Date	Action and Provision of Law	Related Provisions
Not later than August 16, 2011	Appoint members and co-chairs of the joint committee (Section 401(b)(4)(D) and (Section 401(b)(4)(C)(i))	
Not later than September 16, 2011	Hold first meeting of the joint committee (Section 401(b)(5)(E)(i))	
Not later than October 14, 2011	House and Senate standing committees submit recommendations to the joint committee (Section 401(b)(3)(ii))	
At least 48 hours prior to vote on joint committee report and proposal	CBO cost estimates must be available to joint committee members (Section 401(b)(5)(D)(ii))	
Not later than November 23, 2011	Joint committee votes on report and proposal (Section 401(b)(3)(B)(i))	If the committee does not vote by November 23, no legislation will be eligible for consideration under the expedited procedures of the BCA (Section 402(g)(1))
"Promptly" after vote on joint committee report and proposal	Joint committee report, proposal, and record of vote to be made publicly available (Section 401(b)(3)(B)(v))	
No later than 3 days after vote on joint committee report and proposal	Submit any minority or alternative views for inclusion in the joint committee report (Section 401(b)(3)(B)(iii))	
Not later than December 2, 2011	Transmit joint committee report and proposal to the President, Vice President, House and Senate (Section 401(b)(3)(B)(iv))	
First legislative day after joint committee proposal is received	Introduce proposal in the form of a House bill (Section 402(a))	
First calendar day Senate is in session after joint committee proposal is received	Introduce proposal in the form of a Senate bill (Section 402(a))	
Not later than December 9, 2011	House committees report joint committee bill (Section 402(b)(1))	Motion to discharge a committee from consideration of bill is in order if it has not reported by December 9 (Section 402(b)(1))
Not later than December 9, 2011	Senate committees report joint committee bill (Section 402(c)(1))	If any committee fails to report by December 9, it will be automatically discharged (Section 402(c)(1))

Date	Action and Provision of Law	Related Provisions
Not later than 2 days of session after date joint committee Bill is on Senate calendar	Senate majority leader can make motion to proceed to the joint committee bill (Section 402(c)(2))	If the joint committee bill has been on the calendar for two days of session, then any Senator can make a motion to proceed to its consideration (Section 402(c)(2))
Not later than December 23, 2011	Vote on final passage of the joint committee bill in both House and Senate (Section 402(b)(4) and Section 402(c)(5))	If vote on final passage does not occur by December 23, no legislation will be eligible for consideration under the expedited procedures of the BCA (Section 402 (g)(1))
By January 15, 2012	Joint committee bill enacted into law (Section 302(a))	If joint committee bill reducing deficit by at least \$1.2 trillion is not enacted into law by January 15, sequestration will occur starting in 2013 (Section 302(a))
January 31, 2012	Joint committee is terminated (Section 401(d))	

Source: Budget Control Act of 2011, P.L. 112-25, see information in the table for specific citations to the act.

Table B-2. Dates for Introducing and Beginning Floor Consideration of Disapproval Resolutions, by Presidential Certification and Chamber

Date	Action and Provision of Law	Related Provisions
Senate disapproval resolution in response to first Presidential certification		
September 6, 7, 8, or 9 (or, if the Senate was not in session, the next calendar day on which the Senate is in session)	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(i))	
Immediately upon introduction of disapproval resolution	Disapproval resolution placed on the Senate calendar (Section 301(d)(2))	
From introduction until September 14, 2011	A non-debatable motion to proceed to the consideration of the disapproval resolution is in order (Section 301(d)(3)(A))	
House disapproval resolution in response to first Presidential certification		
September 6, 7, 8, or 9	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(i))	
Not later than 5 calendar days after introduction of disapproval resolution	Any committee of the House of Representatives to which the disapproval resolution is referred shall report it to the House without amendment (Section 301(c)(2))	If a committee fails to report the disapproval resolution within that period, the committee shall be discharged from considering it further and it will be referred to the appropriate calendar (Section 301(c)(2))
Not later than the sixth day after the introduction of the disapproval resolution	It shall be in order to move to proceed to consider the disapproval resolution (Section 301(c)(3))	

Date	Action and Provision of Law	Related Provisions
Senate disapproval resolution in response to second Presidential certification		
Between the date the certification is received and 3 calendar days after that date	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(ii))	If the Senate would otherwise not be in session in time to consider a joint resolution disapproving the second certification, the Senate majority leader (in consultation with the minority leader) is required to reconvene the Senate within two calendar days after receiving the certification from the President (Section 301(d)(1))
Immediately upon introduction of disapproval resolution	Disapproval resolution placed on the Senate calendar (Section 301(d)(2))	
From introduction until the 6 th day after the date on which Congress receives a certification	A non-debatable motion to proceed to the consideration of the disapproval resolution is in order (Section 301(d)(3)(A))	
House disapproval resolution in response to second Presidential certification		
The day the certification was received or on any of the next 3 calendar days	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(ii))	If House would otherwise not be in session in time to consider a joint resolution disapproving the second certification, the House Speaker is required to reconvene the House within two calendar days after receiving the certification (Section 301(c)(1))
Not later than 5 calendar days after introduction of disapproval resolution	Any committee of the House of Representatives to which the disapproval resolution is referred is to report it to the House without amendment (Section 301(c)(2))	If a committee fails to report the disapproval resolution within that period, the committee shall be discharged from considering it further and it will be referred to the appropriate calendar (Section 301(c)(2))
Not later than the sixth day after the introduction of the disapproval resolution	It shall be in order to move to proceed to consider the disapproval resolution (Section 301(c)(3))	

Source: Budget Control Act of 2011, P.L. 112-25, see information in the table for specific citations to the act.

Notes: Under the Budget Control Act of 2011, the President submitted to Congress a certification that the debt subject to limit was within \$100 billion of the debt limit on August 2, 2011, and this is identified as the “first” certification in the table. If the debt limit has been increased by \$900 billion, the President may submit another certification when the debt subject to limit is within \$100 billion of the debt limit, and this is identified as the “second” certification in the table.

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Budget Process Reform Proposals

In the past few decades, several budget process reforms have frequently been proposed. This section briefly describes several of those proposals.¹

Item Veto/Expanded Rescission Authority

Currently, when Congress passes a spending or revenue measure, the President must either approve or veto the measure in its entirety. Once a spending measure becomes law, the President may temporarily defer spending; but if he wishes to cancel spending, the funds must be rescinded, which requires statutory enactment. Some advocates claim that granting the President enhanced rescission authority or the ability to veto specific items of spending would create greater budgetary discipline. Critics of the policy suggest that this authority would affect the balance of power between the President and Congress, but that the increased power would have little effect on budget discipline, especially since the power would only be used on new legislation and not previously enacted legislation (direct spending and revenue laws). The Line Item Veto Act, passed in 1996, authorized the President to strike certain spending and tax benefit provisions; but the Act was invalidated by the Courts because it violated the Constitution's presentment clause found in Article I, section 7. Current proposals, such as that suggested by President Obama, would require that Congress take action on rescissions proposed by the President.

For more information, see CRS Report RS22425, *Legislative Line Item Veto Act and Other Expedited Rescission Bills: Brief Overview*, by Virginia A. McMurtry and CRS Report R41373, *Expedited Rescission Bills in the 111th and 112th Congresses: Comparisons and Issues*, by Virginia A. McMurtry.

Balanced Budget Amendment

Some have proposed amending the Constitution to require that total outlays for any given year not exceed total revenue. Some of these proposals have stipulated that three-fifths of the Members of each House would need to agree to a measure providing for a specific excess of spending over revenues. Advocates of a balanced budget amendment argue that such a requirement would eliminate deficit spending and that such requirements have been successful for State governments. Critics state that such an amendment would not provide for adequate exceptions for future conditions that may warrant a deficit. Further, critics suggest that an appropriate enforcement mechanism has not been introduced for such a balanced budget amendment.

For more information, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional Options*, by James V. Saturno and Megan Suzanne Lynch.

Statutory Budget Resolutions

The Budget Control Act of 1974 created budget resolutions as a way of allowing the House and Senate to agree on aggregate spending and revenue totals each year. Because the budget resolution is a concurrent resolution and is therefore not presented to the President to become law, these totals are enforceable only in the House and Senate. Some have proposed that the budget resolution be a joint resolution, instead of a concurrent resolution, so that it would be presented to the President and could, therefore, become law. Proponents argue that this would facilitate

¹ Additional information on the proposals is available upon request.

enforcing the spending, revenue, deficit, and debt levels specified in the budget resolution. Critics argue that reaching such an agreement with the President each year would be difficult, would take away Congress' flexibility to adjust levels in certain situations, and could delay the development and consideration of spending and revenue measures.

Automatic Continuing Resolutions

When regular appropriations bills have not been enacted by October 1, Congress typically passes continuing appropriations (regularly referred to as a continuing resolution or CR) to provide temporary or annual funding to government agencies in order to prevent a shutdown or break in discretionary funded activities. Some have proposed establishing an automatic continuing resolution to provide for an uninterrupted source of funding for government agencies and activities if regular appropriations bills are not enacted by October 1. Critics of such proposals state that an automatic continuing resolution would effectively cover all discretionary spending with a permanent appropriation, reducing the incentive for the President or Congress (or both) to develop and consider appropriations bills in a timely manner, or at all.

For more information, see CRS Report R41948, *Automatic Continuing Resolutions: Background and Overview of Recent Proposals*, by Jessica Tollestrup.

Biennial Budgeting

While authorizations are often enacted on a multi-year basis, Congress acts on appropriations bills and budget resolutions each year. Many complain that acting on an annual basis consumes excessive amounts of time and that appropriations bills and budget resolutions should instead be enacted every two years. Advocates of biennial budgeting state that it would allow more time for Members of Congress to engage in other activities, such as agency oversight. Critics of biennial budgeting state that it would require Congress to make decisions about unknown future conditions and could impair Congress' ability to respond to a changing economic environment.

For more information, see CRS Report R41764, *Biennial Budgeting: Options, Issues, and Previous Congressional Action*, by Jessica Tollestrup.

A Separate Capital Budget

The federal government utilizes a "unified budget" and does not separate capital and operating budgets as many states do (though the President's budget submission does provide information on capital budgeting). Advocates of capital budgeting would like costs for capital projects to be apportioned over the lifetime of the asset, rather than accounted for upon enactment, suggesting that this would increase resources devoted to infrastructure needs and would improve decision making regarding such projects. Critics of capital budgeting assert that it would unnecessarily complicate the already complex budget process, and that it would essentially force future Congress' to pay for the commitments of a current Congress.