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The Appropriations Process: Spending Caps Explained

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Each year, Congress funds much of the general operations of the federal government with legislation known as appropriations bills. These appropriations bills provide discretionary budget authority (authority for the government to spend money) for a number of programs, including national defense, national parks, transportation, and homeland security, among others. These appropriations usually last for a single fiscal year, beginning on October 1 and ending on September 30.

Budget rules are perhaps the most important issue to understand in order to enforce spending levels in appropriations bills. In particular, the spending caps imposed by the Budget Control Act (BCA) of 2011, as well as those imposed by the congressional budgets themselves, are valuable mechanisms for keeping discretionary spending under control.

How Does the Budget Process Begin?

1. The President Submits a Budget Proposal to Congress. Federal law requires the President to submit an annual budget proposal to Congress prior to the first Monday in February. However, the President's budget acts as little more than an outline of the executive's priorities. The power of the purse—that is, the power to decide where and how much money is spent—resides exclusively with Congress. Congress may decide to honor the presidential priorities laid out in the executive budget submission, but Congress is not legally obligated to do so.

2. The Congressional Budget Begins. The Congressional Budget Act (CBA) of 1974 requires that each April, Congress pass a budget that provides the fiscal agenda for the upcoming budget year and at least each of the next four years. The budget that Congress produces is a non-binding concurrent resolution, meaning that it does not become law. However, it does establish internal budget rules and procedures for spending, revenue, and debt limitation.

The rules established by the budget resolution prohibit Congress from considering legislation that is not in compliance with spending and revenue levels, or with debt limits in the resolution. One of these limits is known as the 302(a) spending caps, which limits the amount of money that each congressional committee receives to spend on its priorities. The 302(a) allocation provides the total budget authority and outlays, which allows the Appropriations Committees to begin the work on proposals that provide discretionary funding.[1]

3. The Appropriations Process Begins. After securing the 302(a) levels, the House and Senate Appropriations Committees can begin to distribute funds among the 12 Appropriations Subcommittees. The amounts divvied up to each subcommittee are referred to as the 302(b) spending caps. Under section 302(c) of the Congressional Budget Act, appropriations bills cannot be considered by the House or Senate until the subcommittee allocations have been filed by the Appropriations Committees. This creates an incentive for Congress to approve a budget, as it cannot begin appropriating funds until the allocations have been approved.[2]

This paper, in its entirety, can be found at
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TABLE 1

Congressional Budget Timetable

Deadline	Action Required
First Monday in February	President submits budget to Congress
February 15	Congressional Budget Office submits outlook to budget committees
Six weeks after President's budget submitted	Congressional committees submit views and estimates to budget committee
April 1	Budget committee reports concurrent resolution on the budget
April 15	Congress completes action on the budget
May 15	Annual appropriations bills may be considered in the House
June 10	House Appropriations Committee reports last annual appropriations bill
June 15	Congress completes action on reconciliation process
June 30	House completes action on regular appropriations bills
October 1	Fiscal year begins

Note: Deadlines for submissions are seldom achieved, an exception being the last day of the fiscal year, September 30.
Source: U.S. House of Representatives, Office of the Legislative Council, "Congressional Budget and Impoundment Control Act of 1974," http://legcounsel.house.gov/Comps/BUDGET.pdf (accessed July 16, 2015).

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Congress Should Stick to Spending Levels

The 302(a) Caps. The 302(a) spending caps are established by the concurrent resolution on the budget, which provides an overall discretionary spending cap. The most recent congressional budget, passed in March 2015, set a 302(a) limit of $1.017 trillion for fiscal year (FY) 2016, the same level provided by the BCA. The $1.017 trillion cap designated for discretionary funding is enforced both statutorily and procedurally. There are two enforcements:

1. **Statutory spending cap enforcement.** The BCA establishes spending caps, divided between defense and non-defense spending. In the event that these caps are breached, a process known as "sequestration" is triggered, which includes automatic, across-the-board spending cuts to bring funding into compliance with levels established by law.

2. **Procedural spending cap enforcement.** As highlighted above, the budget resolutions established the 302(a) caps, a limit on the total discretionary budget authority. Members of Congress can enforce the spending levels set in 302(a) by raising a budget "point of order," preventing further consideration of legislation in violation of the budget rules. In both the House and Senate, spending limits are enforced through Section 314(f) and 302(f) of the Budget Act.

In the Senate, these points of order usually require no more than 60 votes (depending on the nature of the point of order) to be sustained. In the House, the ability to challenge a budget point of order is typically determined by the internal rules pertaining to consideration of the bill, set forth by the House Committee on Rules.

Sometimes Congress decides to "waive" the procedural budget point of order that may lie against a piece of legislation. When implemented against legislation being considered, this essentially means that Congress has chosen to ignore its own rules, and to prevent other Members from seeking to enforce them. However, if procedural budget points of order are waived and Congress passes a bill in which spending exceeds defense or non-defense allocations, there is a fallback option: The BCA caps would be violated, and sequestration would be triggered. (See text box, "Sequestration and the Budget.")

The 302(b) Caps. After the 302(a) limits are established, the Appropriations Committees in the House and Senate further subdivide that total among the Appropriations Subcommittees, referred to as 302(b) caps. These spending limits,

1. The authorizing committees also receive a 302(a) allocation that establishes spending levels for the committee's jurisdiction. Like the Appropriations Committee, legislation reported by the authorizing committee must remain within the 302(a) levels set by the budget.

2. The adoption of a budget resolution between the House and Senate is often significantly delayed, preventing the Appropriations Committee from beginning work on the discretionary budget bills. A temporary process known as a "deeming resolution" is passed to allow the appropriations process to proceed in compliance with 311(a) and 302(f) of the Budget Act, by providing "deemed" 302(a) levels.

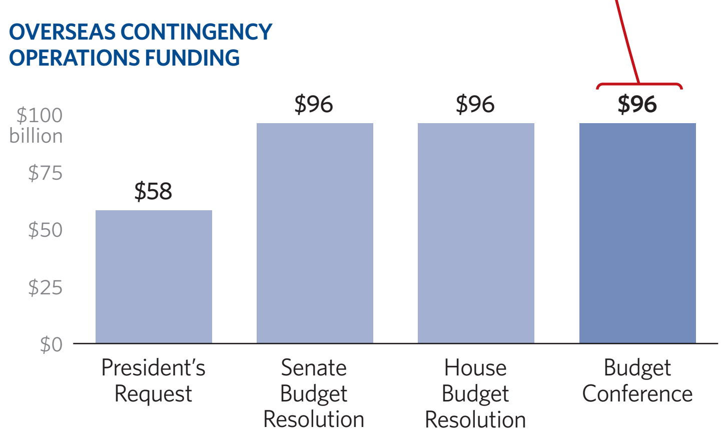
FIGURE 1

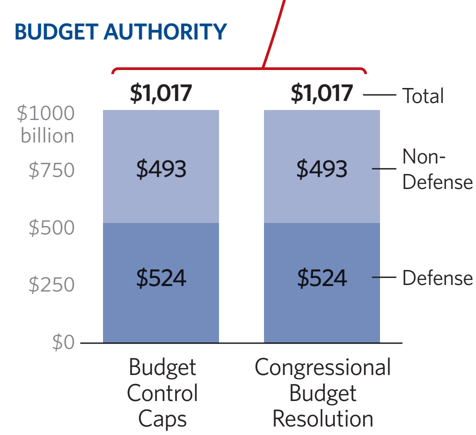
Tracking Appropriations for FY 2016

The Budget Control Act (BCA) set the spending cap at $1,017 billion for FY 2016, including automatic reductions. Total discretionary spending set by the Congressional Budget Resolution, known as the 302(a), is also $1,017 billion. The table below shows the funding levels provided by the BCA and budget resolution. It lists the distribution of discretionary funds among the 12 Appropriations Subcommittees, known as the 302(b), and funding levels for requested Overseas Contingency Operations.

BUDGET AUTHORITY, IN MILLIONS OF DOLLARS

Subcommittee	FY 2015 Enacted	House 302(b) for FY 2016	Senate 302(b) for FY 2016	Difference, Senate vs. House
Agriculture	$20,575	$20,650	$20,510	–$140
Commerce, Justice, Science	$50,103	$51,378	$51,068	–$310
Defense	$490,194	$490,235	$489,131	–$1,104
Energy and Water	$34,202	$35,403	$35,368	–$35
Financial Services	$21,820	$20,249	$20,556	$307
Homeland Security	$39,670	$39,320	$40,213	$893
Interior and Environment	$30,416	$30,170	$30,010	–$160
Labor, HHS, Education	$156,763	$153,050	$153,188	$138
Legislative Branch	$4,300	$4,300	$4,309	$9
Military Construction and VA	$71,808	$76,057	$77,573	$1,516
State, Foreign Operations	$40,007	$40,500	$39,010	–$1,490
Transportation, HUD	$53,770	$55,270	$55,646	$376
Total	**$1,013,628**	**$1,016,582**	**$1,016,582**	**$0**
Overseas Contingency Operations	$73,692	$96,287	$96,287	
Emergency/Disaster Relief	$11,934	—	—	
Program Integrity	$1,484	—	—	
Total Discretionary Budget Authority	**$1,100,738**	**$1,112,869**	**$1,112,869**	





Sources: Congressional Budget Office, "Fiscal Year 2015 Current Status of Discretionary Appropriations," March 13, 2015, http://www.cbo.gov/sites/default/files/cbofiles/attachments/45392-BY2015_DiscretionaryCurrentStatus.pdf (accessed May, 7, 2015); Committee on Appropriations, U.S. House of Representatives, "Suballocations of Budget Allocations for 2016," http://appropriations.house.gov/uploadedfiles/fy2016-302b.pdf (accessed May 7, 2015); and Committee on Appropriations, U.S. Senate, May 21, 2015, http://www.appropriations.senate.gov/sites/default/files/hearings/052115%20FY2016%20Allocation%20Report.pdf (accessed May, 21, 2015).

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Sequestration and the Budget

Sequestration is a budget tool that triggers across-the-board spending cuts once a predetermined threshold of spending is reached. Sequestration was first implemented in 1985 by the Balanced Budget and Emergency Deficit Control Act (BBEDCA). Today, sequestration is associated with the Budget Control Act and Statutory Pay-As-You-Go Act (PAYGO).

Budget Control Act and Sequestration. The sequestration in the BCA is the most widely debated budget matter in Congress, particularly because of its unique impact on discretionary spending. The BCA deals with discretionary spending differently than it does with the sequestered resources of mandatory spending. The cuts to mandatory resources include the yearly cancellation of budgetary funds for FY 2013 to FY 2021 for non-exempt programs such as Medicare. Discretionary spending, on the other hand, is treated yet differently, in that the spending reductions are accomplished by spending caps. Caps originally set in the BCA are further reduced by the amount that would have otherwise been sequestered. Figure 1 shows the BCA spending caps levels with the automatic reductions included. That said, if the Appropriations Committee allocated funding above the reduced spending cap levels, the excess spending would trigger sequestration by the amount that breached the caps. The sequestration of resources would only take place in the account that violated the caps.

Pay-As-You-Go and Sequestration. The second budget tool that utilizes sequestration is PAYGO. Statutory PAYGO was implemented to prohibit mandatory spending and tax legislation from increasing the deficit over 10 years. Unlike the Budget Control Act, PAYGO does not apply to discretionary spending. PAYGO requires the Office of Management and Budget (OMB) to keep "score" of mandatory and revenue legislation that increases the deficit, but also to keep track of legislation that reduces deficits. At the end of each year, the OMB's PAYGO scorecard may not reflect a positive increase in the deficit; in the event it does, that amount is applied to an across-the-board sequestration of all eligible mandatory programs.

like the 302(a) limits, are also enforced by a procedural budget "point of order" pursuant to the Budget Act. (See Figure 1 for 302(b) limits set in the House and Senate.)

The 302(b) levels allow Members of Congress to enforce specific funding limits on each spending bill. This can be particularly helpful when Members attempt to amend a spending-compliant appropriations bill with new spending. If an attempt is made to increase spending above the 302(b) allocation, a budget point of order would be triggered against the amendment.

Skirting the Budget Caps. Unfortunately, recent congressional budget exercises have shown how easily these spending limits can be manipulated. One common way is to use discretionary spending accounts that are exempt from budgetary rules. These accounts include emergency, disaster, or war funding, and are not subject to spending restrictions applied to other discretionary accounts by the BCA and congressional budget resolutions. For instance, funding for the Overseas Contingency Operations (OCO) has traditionally been exempt from budget enforcement.[3] Often these accounts are used for new spending outside the spirit of the rules; in other words, they are not used for emergency funding. An example would be this year's OCO funding provided by Congress. Beyond the amount that the President requested, Congress decided to skirt the budget rules by adding an additional $38 billion next year, and $187 billion over the next decade. The funding loophole provided by OCO does not include another $34 billion above the President's requested needs for disaster funding. In fact, the budget recommends $7

3. The concurrent budget resolution provided the Appropriations Committee a separate OCO funding account, which is deemed an allocation under section 302(a) of the Budget Act. Therefore, any funding that exceeds the levels provided, as highlighted in Figure 1, would be subject to a 302(f) and 302(f)(2)(A) budget point of order.

billion in disaster funding each year through 2021—absent any foreseen disasters. This allows Congress to spend extra money without any of the accountability and balancing of priorities that traditional budgeting requires.

Congress Must Keep Its Promises and Preserve the Overall Spending Caps

Congress put in place budgeting rules and laws for a reason—to control spending, account for spending priorities, and to be responsible caretakers of taxpayer dollars. If Congress thinks these budgets and the accompanying rules fail to adequately allocate federal spending, it should amend them under regular order in the House and Senate. In particular, this applies to national security spending. If Congress determines that national security resources are inadequate, one solution could be to allow greater flexibility within the spending limits by eliminating the so-called firewall between defense and non-defense spending. Removing the firewall would give Congress the opportunity to redirect funds that are otherwise available to overreaching, big-government, domestic programs to meet national security needs—a more fiscally responsible alternative than skirting the rules with budget gimmicks. When Congress manipulates the budget process, it creates the appearance of responsible behavior while flagrantly violating the spirit of the rules and spending limits that Members of Congress themselves set. The role of Congress is to be a responsible shepherd of taxpayer dollars. Congress should abide by both the letter and the spirit of its budgets.

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