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## **S. 3521, the Stop Over Spending Act of 2006: A Brief Summary**

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## **Summary**

S. 3521, the Stop Over Spending Act of 2006, proposes several changes to the congressional budget process, including providing the President a legislative line item veto, reinstating statutory discretionary spending caps, establishing maximum deficit amounts, converting the annual budget cycle to a biennial one, establishing two commissions to examine federal government programs, and making various other modifications. This report provides a brief summary of the major provisions of S. 3521.

It will be updated as developments warrant.

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# S. 3521, the Stop Over Spending Act of 2006: A Brief Summary

## Introduction

S. 3521, the Stop Over Spending Act of 2006, was introduced by Senator Judd Gregg on June 15, 2006, and ordered reported with an amendment by the Senate Budget Committee on June 20. The bill consists of five titles, covering a variety of budget process reforms, including providing the President a legislative line item veto, reinstating statutory discretionary spending caps, establishing maximum deficit amounts, converting the annual budget cycle to a biennial one, establishing two commissions to examine federal government programs, and making various other modifications to the congressional budget process. According to Senator Gregg, the purpose of the Stop Over Spending Act of 2006 is to “at least put procedures in [place] to allow us as a Congress to begin to control spending.”<sup>1</sup> This report provides a brief summary of the major provisions of S. 3521.

## Title 1 — Legislative Line Item Veto

Title I of S. 3521 would create expedited procedures for the consideration of rescissions proposed by the President.<sup>2</sup> Under existing law (the Impoundment Control Act of 1974; Title X of P.L. 93-344; 2 U.S.C. 681-691f), the President may propose to rescind funding in an appropriations act and may withhold that funding from obligation for 45 days without any action by Congress. The rescission, however, may become permanent only by an act of Congress. If Congress does not act on the President’s rescission proposal within 45 days, the President must release the funds for obligation.

Under the legislative line item veto included in S. 3521, the President could propose to rescind funding in appropriations acts, items of direct spending, and targeted tax benefits within one year of their enactment. He would be limited to four special messages proposing rescissions per calendar year. There would be no restrictions on the number and grouping of rescissions in each special message, but the President would be prohibited from resubmitting a rescission proposal rejected

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<sup>1</sup> For Senator Gregg’s full statement on the introduction of S. 3521, see *Congressional Record*, daily edition, vol. 152 (June 15, 2006), pp. S5958-S5961.

<sup>2</sup> For more detailed information on legislative line item veto proposals, see (1) CRS Report RL33517, *Legislative Line Item Veto Act of 2006: Background and Comparison of Versions*, by Virginia A. McMurtry; and (2) CRS Report RL33365, *Line Item Veto: A Constitutional Analysis of Recent Proposals*, by Morton Rosenberg.

by Congress, under the Senate Budget Committee-reported amendment. After submitting a rescission proposal to Congress, the President could withhold funding in an appropriations act or suspend an item of direct spending or targeted tax benefit, as proposed to be rescinded, for up to 45 calendar days.

More significantly, S. 3521 would establish an expedited process to consider the President's rescission proposals. The new process would require Congress to consider legislation containing the President's rescission proposals within 10 days of its introduction, under procedures limiting debate and prohibiting amendments. Under this proposal, therefore, Congress would be required to vote on the President's rescission package with no opportunity to modify it.

## **Title II — Deficit Reduction**

Title II of S. 3521 would establish statutory discretionary spending<sup>3</sup> limits and maximum deficit amounts. Both limits would be enforced by a sequestration process, by which spending in the amount of any violation of the discretionary spending limits or the maximum deficit amounts would be cancelled.<sup>4</sup> Similar statutory limits enforced by sequestration were in place from FY1990 to FY2002, for discretionary spending, and FY1985 to FY1990, for deficit targets.<sup>5</sup>

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<sup>3</sup> Discretionary spending is provided in and controlled by the annual appropriations acts.

<sup>4</sup> S. 3521 provides that the sequestration procedures could be suspended in the event of a period of low economic growth, by Congress enacting a joint resolution suspending such procedures.

<sup>5</sup> The Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508, Omnibus Budget Reconciliation Act of 1990, 104 Stat. 1388-573-1388-630), which amended the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act, first established statutory discretionary spending limits for FY1991-1995. The limits were modified and extended through FY1998 in 1993 (Title XIV of the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66) and extended through FY2002 in 1997 (the Budget Enforcement Act of 1997, Title X of P.L. 105-33). Prior to the creation of the discretionary spending limits, as well as the associated pay-as-you-go (PAYGO) requirement for direct spending and revenue legislation, the Balanced Budget and Emergency Deficit Control Act of 1985 had established annual maximum deficit targets, initially declining to zero by FY1991 and then revised in 1987 (Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119, 101 Stat. 754-788) to require a balanced budget by FY1993. Adjustable deficit targets remained in effect through FY1995, but they effectively were superseded by the other two enforcement mechanisms. For background information on sequestration, see (1) CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith; and (2) CRS Report RS20398, *Budget Sequesters: A Brief Review*, by Robert Keith.

## Discretionary Spending Limits

S. 3521 would establish limits on discretionary new budget authority for FY2007 (\$872.5 billion), FY2008 (\$895.4 billion), and FY2009 (\$919.5 billion); it also would require the President to recommend and Congress to consider limits for fiscal years thereafter. The legislation would allow for adjustments to these amounts for any spending designated by the President and Congress as an “emergency requirement,” but limits the adjustment by a certain amount for each year.<sup>6</sup> The limits also could be adjusted for “enhanced tax enforcement initiative” spending, but again limited by a certain amount for each year.<sup>7</sup>

The new discretionary spending caps would be enforced by sequestration, as during the period covering FY1991-FY2002 under the Budget Enforcement Act. The Office of Management and Budget (OMB) would be required to issue a final sequestration report indicating any breach of the discretionary spending limit for the budget year 15 days after the end of a session of Congress. If OMB determined that the spending limit had been exceeded, the President would be required to issue a sequestration order cancelling budget authority in each discretionary spending account by the uniform percentage necessary to eliminate the breach.<sup>8</sup>

## Maximum Deficit Amounts

S. 3521 also would establish annual maximum deficit amounts, expressed as a percentage of Gross Domestic Product (GDP), declining to 0.5% of GDP by FY2012.<sup>9</sup> These maximum deficit amounts ultimately would be enforced by sequestration. Similar to the enforcement of the discretionary spending limits, OMB would be required to issue a final sequestration report indicating any projected deficit for the budget year in excess of the applicable maximum deficit amount 15 days after the end of a session of Congress. If OMB determined that the projected deficit exceeded the maximum deficit amount, the President would be required to issue a

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<sup>6</sup> Spending designated as an “emergency requirement” would be capped at \$90 billion for FY2007, \$50 billion for FY2008, and \$30 billion for FY2009. “Emergency” spending has averaged about \$96 billion over the past six fiscal years (2001-2006), which includes funding for the military activities in Afghanistan and Iraq (CRS calculation based on CBO data).

<sup>7</sup> The adjustment would be limited to \$274 million for FY2007, \$414 million for FY2008, and \$554 million for FY2009.

<sup>8</sup> Along with this end-of-the-session sequestration, a within-session sequestration could occur when an appropriation, such as a supplemental appropriation, caused a spending limit to be breached during a fiscal year. In this case, a sequestration would occur seven days after the enactment of the appropriation. If a violation of a discretionary spending limit occurred in the last quarter of the fiscal year (i.e., July 1 through September 30), the spending limit for the following fiscal year would be reduced by the amount of the violation.

<sup>9</sup> The legislation specifies the following annual maximum deficit amounts, expressed as a percentage of GDP: 2.75% (FY2007); 2.25% (FY2008); 1.75% (FY2009); 1.25% (FY2010); 0.75% (FY2011); and 0.5% (FY2012 and each fiscal year thereafter). The maximum deficit amounts would be calculated by OMB, presumably using the most recent estimates of GDP at the time OMB issues its reports.

sequestration order cancelling budget authority in each nonexempt direct spending account by the uniform percentage necessary to eliminate the excess deficit.<sup>10</sup>

Prior to such action, however, Congress would have an opportunity to develop and consider reconciliation legislation under expedited procedures in response to an anticipated final sequestration report indicating an excess deficit. On August 20 of each year, OMB would be required to issue a reconciliation report indicating any projected deficit for the budget year in excess of the applicable maximum deficit amount. On September 15, the budget committees would be required to issue a reconciliation directive report specifying the projected excess deficit amount for the budget year, the amount by which spending and revenues would need to be changed to eliminate the excess deficit, and directives to committees to recommend changes in existing laws within their jurisdiction to eliminate the excess deficit.<sup>11</sup> The Senate Budget Committee-reported amendment would require the amount that each committee would be directed to save through legislative changes be proportionate to the amount of direct spending under their jurisdiction.

Committees would be required to submit to their respective budget committees their legislative recommendations to meet their reconciliation directives no later than 20 days after the directives had been issued. The budget committees, as with the existing reconciliation process, then would package these recommendations into an omnibus reconciliation measure and report that measure to their parent chamber. The reconciliation measure would be considered under expedited procedures that, in particular, limit debate and amendments in the Senate and bar the inclusion of extraneous matter (see section “Reconciliation Process,” below).

### **Title III — Biennial Budgeting and Appropriations**

Title III would convert the current annual budgeting and appropriations process to a biennial one.<sup>12</sup> Specifically, under this proposal, in the first session (or odd-numbered year), Congress would develop and consider a budget resolution, setting forth a six-year budget plan (the upcoming biennium plus the following four fiscal years), regular appropriations measures, each containing funding for two fiscal years, and any reconciliation legislation. In the second session (or even-numbered year), Congress then would conduct oversight and consider authorization measures and any necessary supplemental appropriations bills.

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<sup>10</sup> Section 227 of S. 3521 exempts from any sequestration order Social Security benefits, Tier I Railroad Retirement benefits, and other specific accounts or activities that are not available for sequestration, such as interest on the public debt, claims against the United States, and miscellaneous permanent appropriations for existing contracts.

<sup>11</sup> Not later than 20 days after OMB submits such report, House and Senate committees could submit information similar to that contained in their “views and estimates” to assist the budget committees in preparation of reconciliation directives reports.

<sup>12</sup> For further information on biennial budgeting, see CRS Report RL30550, *Biennial Budgeting: Issues and Options*, by James V. Saturno.

Among other aspects of converting the existing budget process to a biennial one, under the provisions of S. 3521, Congress would be required to complete action on the budget resolution by May 15 of each odd-numbered year, instead of by April 15 of each year under existing law. In addition, S. 3521 would create points of order in the House and Senate against the consideration of any regular appropriations measure that contained funding for only the first fiscal year of a biennium rather than both years (unless funding is needed only for one year) and any authorization legislation that did not authorize appropriations for at least two fiscal years. Finally, as with the current enforcement of the budget resolution but reflecting the adoption of a biennial budget, the budget levels for each fiscal year of the biennium could be enforced through points of order during the consideration of budget legislation.

## **Title IV — Commissions**

Title IV would create two commissions to examine federal government programs: (1) National Commission on Entitlement Solvency; and (2) Commission on Congressional Budgetary Accountability and Review of Federal Agencies. Each commission would be composed of 15 members; three members each would be appointed by the President, the Senate Majority Leader, the Senate Minority Leader, the House Speaker, and the House Minority Leader.<sup>13</sup>

### **National Commission on Entitlement Solvency**

The National Commission on Entitlement Solvency would be charged with examining the three largest federal entitlement programs: (1) Social Security; (2) Medicare; and (3) Medicaid. The commission's main objective would be to provide (by May 1, 2007) recommendations to Congress to ensure the long-term solvency of these entitlement programs.<sup>14</sup> Under procedures set forth in S. 3521, the commission's legislative recommendations would be introduced in both chambers, referred to the House Ways and Means Committee and the Senate Finance Committee, reported by such committees with or without amendment, and generally considered under expedited procedures on the floor of each chamber. In particular, consideration on the bill would be limited (therefore preventing a filibuster in the Senate and requiring a vote on final passage immediately after debate had concluded) and amendments would have to be germane. The Senate Budget Committee-reported amendment would require that in the Senate the bill be recommitted to the Senate Finance Committee or the conference report be recommitted to the conference committee, as applicable, unless the Senate agreed to proceed to final passage; the motion to proceed to final passage would require the affirmative vote of 60 Senators.

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<sup>13</sup> With regard to the National Commission on Entitlement Solvency, the Senate Budget Committee-reported amendment would prohibit more than two of the three commission members appointed by each person from being affiliated with the same political party.

<sup>14</sup> Any recommendation would have to be approved by at least 10 members of the commission.



## Commission on Congressional Budgetary Accountability and Review of Federal Agencies

The Commission on Congressional Budgetary Accountability and Review of Federal Agencies would be charged with reviewing and possibly modifying the President's assessment of all federal agency programs.<sup>15</sup> Based on this review, the commission could, or in some cases would be required to, recommend (each year over the next four years beginning January 1, 2008) the realignment or elimination of any agency program if it is found to be “duplicative,” “wasteful or inefficient,” or “outdated, irrelevant or failed.” The commission's legislative recommendations would be considered similarly to the Entitlement Solvency Commission's recommendations described above, including the consideration limitations, with a few differences. In particular, the bill containing the Accountability Commission's recommendations would be referred to the appropriate committee(s), but the committee(s) would be prohibited from recommending amendments. In addition, during the consideration of the bill on the floor of each chamber, amendments would be prohibited.

### Title V — Budget Process Reforms

Title V of S. 3521 makes several modifications to the existing budget process by amending the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 88 Stat. 297-332). Specifically, the legislation would make changes related to the budget resolution, the reconciliation process, conference reports, and direct spending legislation. In addition, S. 3521 amends 31 U.S.C. 1108(e) regarding agency appropriations requests to Congress.

#### Budget Resolution

The existing budget process requires Congress to adopt a budget resolution each year, setting forth aggregate spending and revenue levels, and spending levels by major functional categories, for at least five fiscal years. As mentioned above, Title III of S. 3521 would require Congress to adopt a budget resolution setting forth budget levels for at least a six-year period (i.e., the upcoming biennium and the following four fiscal years) in the first session of each Congress. Title V of S. 3521 would make additional changes to the budget resolution and its consideration.

First, S. 3521 would require that the budget resolution include the amount of new spending under the jurisdiction of each House and Senate committee, instead of new spending by major functional category. Currently, the committee spending allocations [referred to as 302(a) allocations] are included in the reports accompanying the budget resolution, not in the actual text of the budget resolution. Second, under the provisions of S. 3521, the *consideration* of the budget resolution

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<sup>15</sup> For further information on similar proposals, see CRS Report RS21980, *Commission on the Accountability and Review of Federal Agencies (CARFA): A Brief Overview of Legislative Proposals*, by Clinton T. Brass.

would be limited in the Senate, instead of simply the *debate*. With this change, once the statutory 50-hour limit (or the statutory 10-hour limit on a conference report) had expired or was yielded back, the Senate would proceed to a vote on the budget resolution immediately. Currently, because the limitation is on debate only, once the 50 hours expires or is yielded back, the Senate still may consider amendments and other available motions, but without debate, leading to what has come to be known as “vote-arama.” The provisions in S. 3521 would prevent a “vote-arama.” Finally, the proposal would limit consideration of motions related to requesting a conference with the House to one hour and debate on a motion to instruct conferees to 20 minutes, equally divided. Debate on all actions relating to resolving differences with the House on the budget resolution currently is limited to a total of 10 hours.

## Reconciliation Process

Congress may implement changes to existing law related to direct spending, revenues, or the debt limit through the reconciliation process, under Section 310 of the Budget Act.<sup>16</sup> The reconciliation process has two stages. First, Congress includes reconciliation directives in a budget resolution directing one or more committees in each chamber to recommend changes in statute to achieve the levels of direct spending, revenues, debt limit, or a combination thereof, agreed to in the budget resolution.

Second, each instructed committee develops legislative recommendations to meet its reconciliation directives and reports its legislative recommendations to its respective chamber directly (in the case of a singly-instructed committee) or transmits such recommendations to its respective budget committee. In the latter case, the legislative language recommended by committees is packaged “without any substantive revision” into one or more budget reconciliation bills, as set forth in the budget resolution, by the House and Senate Budget Committees.

The consideration of reconciliation legislation reported in the House or Senate is governed by special procedures. These procedures serve to limit what may be included in reconciliation legislation, prohibit certain amendments, and encourage its completion in a timely fashion.

S. 3521 proposes to make a number of changes to the reconciliation process. First, under the proposal, if a committee failed to comply with its reconciliation directives, the Senate Budget Committee could report amendments within the jurisdiction of the noncompliant committee to achieve compliance. As mentioned above, the Senate Budget Committee currently may not report any substantive changes to a committee’s legislative recommendations, regardless of a committee failing to comply with its reconciliation directives. Second, as with the consideration of the budget resolution, S. 3521 would limit the *consideration* of reconciliation legislation, instead of simply limiting *debate*, thereby preventing a “vote-arama” at the end of the statutory 20-hour limit.

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<sup>16</sup> For a full discussion of the reconciliation process, see CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

Finally, under the existing Byrd rule, reconciliation legislation or amendments thereto may not contain “extraneous matter,” as defined in Section 313 of the Budget Act.<sup>17</sup> Under the provisions of S. 3521, a provision that produces a budgetary impact which is “merely incidental” to the non-budgetary components of the provision would no longer be considered “extraneous matter.” Not every component of a provision, therefore, would be required to individually have a budgetary impact. In addition, a provision increasing direct spending or reducing governmental receipts would be considered “extraneous matter” if the budget impact of such provision would exceed 20% of the total amount of changes contained in a committee’s directives. S. 3521 would retain the other current definitions of “extraneous matter.” Technical and conforming provisions would not be considered “extraneous matter” as well.

## Conference Reports

S. 3521 creates a new point of order against the consideration of a conference report unless a cost estimate or table by the Congressional Budget Office is available. Currently, Section 308(a)(2) of the Budget Act requires such cost estimate shall be included in the statement of managers “if available on a timely basis” or made available to Members “as soon as practicable” prior to the consideration of a conference report.

## New Direct Spending Point of Order Tied to Medicare Spending

Section 512 of S. 3521 would require the Senate Budget Committee chair to submit to the Senate a notification (referred to as a “Medicare funding warning”) when contributions from the general fund of the Treasury to Medicare would exceed 45% of total Medicare outlays within seven years.<sup>18</sup> The proposal also creates a point of order against any legislation that would cause an increase in direct spending (net of other changes to direct spending or receipts contained in the measure) if notification has been submitted to the Senate for two consecutive calendar years. A motion to waive the new point of order would require a three-fifths vote (60 votes, if there are no vacancies). The notification would be withdrawn if legislation is enacted that would reduce the contribution of the general fund of the Treasury to Medicare outlays below the 45% threshold.

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<sup>17</sup> For detailed information on the Byrd rule, see CRS Report RL30862, *The Budget Reconciliation Process: The Senate’s “Byrd Rule,”* by Robert Keith.

<sup>18</sup> The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173) also requires a similar “Medicare funding warning” by the Board of Trustees of each Medicare trust fund. Under procedures specified in Title XIII of P.L. 108-173 (117 Stat. 2357-2364), if a “Medicare funding warning” is issued by the Trustees, the President is required to submit to Congress proposed legislation to respond to the warning, and such legislation is considered under expedited procedures in the House and Senate.