



Updated June 7, 2017

The Budget Resolution and the Budget Control Act's Discretionary Spending Limits

Recently, questions have arisen about the relationship between the congressional budget resolution and the statutory discretionary spending limits created by the Budget Control Act of 2011 (BCA; P.L. 112-25). Specifically, questions have been asked about whether Congress may consider a budget resolution that provides for spending levels above the statutory discretionary spending limits and whether the budget resolution may change or supersede the discretionary spending limits.

The Congressional Budget Resolution

The Congressional Budget Act of 1974 (Budget Act; Titles I-IX of P.L. 93-344, as amended) provides for the annual adoption of a budget resolution. The budget resolution reflects an agreement between the House and Senate on a budgetary plan for the upcoming fiscal year. This plan is designed to establish spending and revenue levels within which Congress will consider subsequent budgetary legislation.

The budget resolution does not become law. Therefore, no money is spent or collected as a result of its adoption. Instead, it is meant to assist Congress in adhering to and implementing an overall budget plan. Once agreed to by both chambers, the budget resolution creates spending and revenue levels that may be enforced by points of order.

The Statutory Discretionary Spending Limits

The BCA established statutory limits on discretionary spending for FY2012-FY2021. (Discretionary spending is provided annually in appropriations legislation.) Currently, there are separate annual limits for defense discretionary and non-defense discretionary spending. The defense category consists of discretionary spending in budget function 050 (national defense) only. The non-defense category includes discretionary spending in all other budget functions.

If discretionary appropriations are enacted for a fiscal year that exceed a statutory limit, across-the-board reductions (i.e., sequestration) of non-exempt budgetary resources within the applicable category are required to eliminate the excess spending. The BCA further stipulates that the enactment of certain discretionary spending—such as appropriations designated as emergency requirements or for overseas contingency operations—allows for an upward adjustment of the discretionary limits (meaning that such spending is essentially exempt from the limits).

A second component of the BCA requires reductions to these limits annually. (These reductions are often referred to as a “sequester,” although they are not a sequester per

se.) Due to the absence of the enactment of specific legislation to reduce the deficit by at least \$1.2 trillion over the 10-year period, the BCA requires these reductions to the statutory limits on both defense and non-defense discretionary spending for each year through FY2021. These reductions are calculated annually by the Office of Management and Budget.

OMB's FY2018 Sequestration Preview report stated the limits to be \$549 billion for defense and \$516 billion for non-defense. (This reflects the required downward adjustments.)

The Budget Resolution and the Statutory Discretionary Spending Limits

Some Members of Congress have expressed dissatisfaction with the statutory discretionary spending limits, and in fact several pieces of legislation have been enacted that increased the spending limits in the past. (Statutory increases were made to the limits for FY2014, FY2015, FY2016 and FY2017. See CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch.) The spending limits may be modified or eliminated only by statute. Because a budget resolution is in the form of a concurrent resolution—and therefore is not a lawmaking measure—it cannot be the legislative vehicle to enact such a change.

Nevertheless, when Congress desires spending in excess of the discretionary spending limits, it may wish to reflect those intentions in the budget resolution, since the budget resolution acts as a plan for the upcoming budget year. For example, the House passed a budget resolution in the past that reflected defense discretionary spending levels above the amount stipulated by the BCA. (H.Con.Res. 25, 113th Congress).

In the Senate, however, section 312(b) of the Budget Act prohibits consideration of a budget resolution that includes budgetary levels in excess of the BCA limits. If a budget resolution includes such levels—such as an amount for the defense function (050) that is higher than the spending limit for FY2018—its consideration would be subject to a point of order in the Senate. If such a point of order were raised, further consideration of the budget resolution would not be in order unless the point of order were waived by a vote of three-fifths of all Senators. There may be other ways, however, that a budget resolution might express support for spending above the discretionary spending levels stipulated by the BCA. For example, the budget resolution might include provisions allowing for subsequent adjustment of the levels in the budget resolution, or it may include

information in the committee report reflecting a plan for spending in excess of the limits.

Even if a budget resolution reflected spending in excess of the spending limits, any subsequent appropriations legislation that would violate the spending limits would still be subject to the double-pronged enforcement provided in the BCA comprising (1) congressional rules enforced by points of order at the time of consideration and (2) statutory sequestration after enactment.

First, the appropriations measure(s) in violation of the spending limit would be subject to a 312(b) point of order in the Senate (as described above), as well as a 314(f) point of order in either the House or the Senate. If either of those points of order were raised, further consideration of the

appropriations measure would not be in order unless the point of order was waived by a vote of three-fifths of all Senators in the Senate or in the House by a simple majority of those Members voting (assuming a quorum).

Second, any appropriations enacted into law in excess of the levels stipulated by the BCA would trigger a sequester, canceling previously enacted spending through automatic, largely across-the-board reductions of non-exempt budgetary resources within the category of the breach.

Megan S. Lynch, Specialist on Congress and the Legislative Process

IF10647

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.