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When Congress Does Not Agree on a Budget Resolution: Use of Existing Budget Enforcement and Deeming Resolutions

The Budget Resolution

The Congressional Budget Act of 1974 provides for the annual adoption of a budget resolution, which is meant to reflect an agreement between the House and Senate on a budget plan. The budget resolution does not become law—no money is spent or collected as a result of its adoption. Instead, it is meant to provide an opportunity for Congress to consider and execute an overall budget framework. The budget resolution includes certain spending and revenue levels that become enforceable once both chambers have agreed to the resolution. In addition, agreement on a budget resolution allows Congress to trigger the budget reconciliation process, which provides fast-track procedures in the Senate.

Complications May Arise Without a Budget Resolution

When Congress does not employ a budget resolution (either because it has not considered a budget resolution or because the chambers have not reached agreement), the consideration of budgetary legislation for the upcoming fiscal year may become complicated. It is likely to be more difficult to agree on such legislation, both within each chamber and between the chambers, when there is no agreement on budgetary parameters.

For example, without a budget resolution, committees are not given a committee spending allocation reflecting a limit on spending within that committee's jurisdiction (a 302(a) allocation). Lacking such an allocation, the House and Senate Appropriations Committees cannot make the required sub-allocations, which act as formal limits on each of the 12 regular appropriations bills. This may hinder the development and consideration of appropriations measures that provide funding for discretionary spending programs.

In addition, without agreement on a budget resolution, Congress cannot trigger the budget reconciliation process.

Congress May Rely on Existing Budget Enforcement in the Absence of a Budget Resolution

In the absence of a budget resolution, Congress might rely on other tools, such as chamber rules and statutory enforcement mechanisms, that place restrictions on certain types of budgetary legislation. For example, the Budget Control Act of 2011 (BCA) created separate spending limits for defense and non-defense discretionary spending through FY2021. These broad limits on spending may act as a guide to Congress in developing appropriations legislation, but they do not provide an enforceable limit on individual appropriations measures in a way comparable to the 12 committee sub-allocations.

In 2016, before the House and Senate had agreed upon a budget resolution for FY2017, the House moved forward on appropriations legislation by using the overall levels prescribed by the statutory spending limits as a basis for discretionary spending levels. The House Appropriations Committee, citing the lack of a budget resolution, adopted “interim 302(b) sub-allocations.” The interim sub-allocations did not act as an enforceable cap on appropriations measures when they were considered on the floor. A separate House rule, however, prohibited amendments that would increase net spending in the bill, thus creating a cap on individual appropriations bills considered on the floor.

For FY2018, the BCA discretionary spending limits are lower than they were for FY2017, and some Members of Congress and the President have expressed support for increasing one or more of the limits. It may be more difficult, therefore, for the Appropriations Committees to use the current spending limits prescribed by the BCA as a basis for discretionary spending levels as they develop appropriations legislation for FY2018.

Congress May Use a “Deeming Resolution” in the Absence of a Budget Resolution

In the absence of agreement on a budget resolution, Congress may employ alternative legislative tools to serve as a substitute for the budget resolution. These substitutes are typically referred to as “deeming resolutions,” because they are *deemed* to serve in place of an agreement between the two chambers on an annual budget resolution for the purposes of establishing enforceable budget levels for the upcoming fiscal year. Using a deeming resolution, however, does not prevent Congress from later agreeing to a budget resolution.

While referred to as deeming resolutions, such mechanisms are not formally defined and have no specifically prescribed content. Instead, they simply represent the House and Senate using alternative legislative tools to deal with enforcement issues on an ad hoc basis. As described below, the mechanisms vary in form and function, but they always (1) include or reference certain budgetary levels (e.g., aggregate spending limits and committee spending allocations) and (2) contain language stipulating that such levels are to be enforceable by points of order as if they had been included in a budget resolution.

Variations in Deeming Resolutions

As described below, deeming resolutions have varied in several ways.

Variations in Legislative Vehicle

Congress initially used simple resolutions as the legislative vehicle for deeming resolutions (which is why they are referred to as resolutions). Deeming resolutions, however, have also been included as provisions in lawmaking vehicles, such as appropriations bills, as well as bills affecting budget enforcement mechanisms, such as the Bipartisan Budget Act of 2013 (Division A of P.L. 113-67) and the Bipartisan Budget Act of 2015 (P.L. 114-74).

Variations in Timing

Timing of congressional action on deeming resolutions has varied, since deeming resolutions may be initiated any time Congress regards it as necessary. Chambers have often agreed to deeming resolutions several months after they have separately agreed to a budget resolution but have not come to agreement with each other. Alternatively, chambers have agreed to a deeming resolution on the same day as agreeing to a budget resolution in situations when one chamber foresees difficulty resolving differences with the other chamber.

Variations in Content

Deeming resolutions always include at least two things: (1) language setting forth or referencing specific budgetary levels (e.g., aggregate spending limits and/or committee spending allocations) and (2) language stipulating that such

levels are to be enforceable as if they had been included in a budget resolution. Deeming resolutions have referenced the enforceable budgetary levels either by including explicit dollar amounts or by referencing certain budgetary amounts, such as those included in a budget resolution already agreed to by that chamber or those consistent with the baseline projections of the Congressional Budget Office.

Deeming resolutions have also varied in terms of which budgetary levels are included. For example, in some cases deeming resolutions have included only committee allocations to the Appropriations Committee, while in other cases they have included allocations for all committees, as well as aggregate spending and revenue levels. In addition, deeming resolutions have often included other matter, such as points of order.

For more information on deeming resolutions, see CRS Report R44296, *Deeming Resolutions: Budget Enforcement in the Absence of a Budget Resolution*, by Megan S. Lynch.

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