

# CRS Report for Congress

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## A Brief Introduction to the Federal Budget Process

Updated October 20, 1997

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## Summary

Each year, the federal government raises and spends more than \$1.5 trillion through its budget process. The federal budget process is widely regarded as a complex, time-consuming, and arcane set of activities often suffused with controversy, frustration, and delay. These characteristics of the process are attributable to various factors, including the vast scope and complexity of federal activities and the numerous types of financial transactions needed to fund them, the profusion of participants in the budget process and the wide dispersal of budgetary power, and the far-reaching economic and political consequences of budgetary decision-making.

The federal budget cycle begins each year with the preparation and submission to Congress of the President's budget. The President's budget is only a request to Congress; Congress is not required to adopt his recommendations. Nevertheless, the President's budgetary proposals often guide 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 Congressional Budget and Impoundment Control Act of 1974, as amended, establishes the congressional budget process as the means by which Congress coordinates its various budget-related actions. The process is centered around an annual concurrent resolution on the budget that sets aggregate budget policies and functional priorities for a multiyear period. 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.

Budget resolution policies are implemented by Congress through the enactment of annual appropriation and other spending measures, revenue measures, debt-limit legislation, and reconciliation bills. Each class of budgetary legislation is considered under its own set of rules and procedures.

The President may avail himself of special authority to impound appropriated funds. Under the Impoundment Control Act of 1974, the President may propose the cancellation of spending; special procedures are included in the act to provide for House and Senate action on these proposals. Beginning in January of 1997, the President has had special line-item veto authority to cancel not only discretionary appropriations, but new entitlement spending and targeted tax benefits as well. The line-item veto procedures provide that the President's recommendations go into effect unless disapproved by Congress within a relatively short period of time.

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# A Brief Introduction to the Federal Budget Process

## Introduction

Each year, the federal government raises and spends more than \$1.5 trillion through its budget process. The federal budget process is widely regarded as a complex, time-consuming, and arcane set of activities often suffused with controversy, frustration, and delay. These characteristics of the process are attributable to various factors, including the vast scope and complexity of federal activities and the numerous types of financial transactions needed to fund them, the profusion of participants in the budget process and the wide dispersal of budgetary power, and the far-reaching economic and political consequences of budgetary decision-making.

This report provides a brief introduction to the federal budget process.<sup>1</sup> Key budget concepts and terminology are defined and explained. The separate procedures that make up the federal budget process are identified and their salient features described. While a complete understanding of federal budgeting probably can be obtained only after much observation and study of the process in operation, broad exposure to its rudiments is a useful first step. Various resources “for additional reading” are identified at the end of this report, which the reader may find helpful in exploring the subject in greater depth.

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<sup>1</sup> Substantial portions of this report are drawn from the Congressional Research Service’s *Manual on the Federal Budget Process*, by Allen Schick, Robert Keith, and Edward Davis, CRS Report 91-902 GOV, December 24, 1991, 218 pages. A revised version of the manual will be available in 1998.

## Key Budget Concepts and Terms

A thorough understanding of the federal budget process requires familiarity with dozens, if not hundreds, of concepts and terms. Some of the key concepts and terms relating to the elementary units of budgeting, budget coverage and classifications, the timing of budgetary actions, and the budget baseline are discussed below.

### Elementary Units of Budgeting

Like any complex process, federal budgeting can be broken down into its fundamental units of activity and measurement.

**Spending.** The spending process encompasses three distinct phases involving budget authority, obligations, and outlays. *Budget authority* is enacted by Congress and the President in law. It provides the legal basis for federal agencies to make binding financial commitments in the form of *obligations*. Obligations stem from such agency actions such as entering into contracts, employing personnel, and submitting orders for goods and services. When obligations are liquidated, *outlays* ensue. Usually, outlays take the form of checks, electronic fund transfers, or other payments made by the Treasury Department.

Most of the new budget authority made available to agencies each year derives automatically from laws enacted during prior Congresses. The funds become available without the Congress taking any legislative action. For example, the funds necessary to pay Social Security benefits are provided automatically each year under a law enacted in the 1930s providing a *permanent appropriation* for the program. Other forms of budget authority which may bypass annual legislative action include *borrowing authority* and *contract authority*, under which agency heads may borrow funds or enter into contractual arrangements in advance of appropriations action, and the authority to spend *offsetting collections* (see discussion under **Revenues**, below).

The remaining new budget authority made available to agencies each year comes from currently enacted legislation, mostly in the form of measures providing *annual appropriations*. Many agencies have access to additional budget authority enacted in prior years that has carried over as unspent balances.

One of the most important characteristics of budget authority is the period during which it is available for obligation. Most budget authority for the routine operating expenses of the federal government is “one-year” funding, meaning that it may be obligated only during the one fiscal year for which it is made available; after that, the funds lapse and no longer are available to be obligated. Budget authority enacted for procurement, construction, and similar long-term activities, on the other hand, often is “multiyear” or “no-year” funding, which may be obligated during a set number of fiscal years or an indefinite period. For all types of budget authority, outlays usually may be made for several fiscal years after the authority to obligate the funds has expired.

The measurement of the pace at which spending for particular programs occurs is referred to as the *spendout rate*. More precisely, this measures the rate at which

budget authority becomes outlays during fiscal year periods. Spendout rates are determined largely by the timing of agency activity. Consequently, it is more difficult for Congress to control outlay levels than it is to control budget authority levels.

In the case of some spending programs, the federal government lends funds directly or guarantees them as a third party. For many years, the federal budget monitored such credit activities by tracking the level of direct loan obligations and loan guarantee commitments. Pursuant to the Federal Credit Reform Act of 1990 (incorporated into the Congressional Budget Act of 1974 as a new Title V by the Budget Enforcement Act of 1990), the federal budget now focuses on the subsidy element, rather than the cash flows, of these two types of programs. Loan subsidies now are recorded as budget authority and outlays.

**Revenues.** Revenues of the federal government (also referred to as *receipts*) derive from a number of sources. Individual and corporate income taxes account for about half of the receipts of the federal government, but social insurance taxes are an increasingly prominent source of revenues. Additional amounts accrue to the government from various excise taxes, customs fees, gifts, and miscellaneous receipts.

Some income to the federal government, which arises from business-like or market-oriented activities (such as the sale of electricity from federal power administrations), is referred to as *offsetting collections*. These funds are offset or deducted from federal spending instead of being counted as revenues.

Deviations from the “normal” tax code (such as exemptions, deductions, and special rules) are known as *tax expenditures*. These devices provide a means of pursuing policy objectives in a manner analogous to spending programs. For example, the federal government promotes the goal of homeownership by providing a tax deduction for mortgage interest costs; comparable resources could be devoted to this goal through spending programs involving grants or loans.

**Deficit and Surplus.** The deficit or surplus is determined by the relationship of outlays to revenues. An excess of outlays over revenues is a deficit, while an excess of revenues over outlays is a surplus.

**Accounts and Funds.** Spending and revenues in the federal budget are recorded on the basis of accounts. In the case of annual appropriations, for example, each account usually corresponds to a separate heading in the legislation. Funds allocated to accounts are further divided by the programs, projects, activities, and objects of expenditure related to the account. In budget presentations, accounts are usually grouped together by the organizational unit (*e.g.*, the department or agency) that manages them. Some types of accounts, such as credit financing accounts, are included in budget presentations but are used only for accounting purposes; they do not reflect budgetary transactions.

Federal spending and revenues also may be characterized by the type of funds involved. The two basic types of funds in the budget are *trust funds*, which are used to carry out specific purposes in accordance with statutory requirements, and *federal funds*, which derive from the federal government’s sovereign powers and are spent on the government’s general activities.

## Budget Coverage and Classifications

**On-Budget and Off-Budget Entities.** For the past several decades, the federal budget has merged together trust funds and federal funds into a single presentation, with certain exceptions. Entities included in the budget presentation are referred to as *on-budget entities*; those excluded are known as *off-budget entities*. At present, the Social Security trust funds and the postal service fund are the only off-budget entities. Despite their off-budget status, the President's budget includes information on the budgetary impact of these funds.

**Operating and Capital Funds.** The federal government does not use separate operating and capital budgets, unlike most state governments. Instead, funds for operating expenses and capital programs are merged together. However, the President's annual budget submission includes an analysis of such funds in the budget.

**Functional Categories.** One of the most long-standing methods of classifying federal spending is by functional category. The functional categories — such as national defense, agriculture, transportation, and health — are used to group together related spending accounts regardless of the agency or other unit that manages them. The functional categories thus represent a broad statement of budget priorities.

**Discretionary and Direct (Mandatory) Spending.** A more recent method of classifying federal spending, arising from the procedural requirements of the Budget Enforcement Act of 1990, depends on whether the spending is considered to be discretionary or direct. Discretionary spending is provided in annual appropriations acts, which fall under the jurisdiction of the House and Senate Appropriations committees. Direct spending, also called mandatory spending, is provided in substantive legislation, which is within the jurisdiction of the authorizing committees of the House and Senate. Most direct spending involves entitlement programs funded by permanent appropriations. Some entitlement programs, however, are funded in annual appropriations acts, but such spending is considered to be direct spending.

## The Fiscal Year Cycle

**The Fiscal Year.** The federal budget process operates under a fiscal year cycle that is 12 months in length. The federal fiscal year begins on the October 1 preceding the calendar year for which the fiscal year is named (*e.g.*, fiscal year 1999 begins on October 1, 1998, and ends on September 30, 1999). Most state governments use a fiscal year that runs from July 1 through June 30.

**The Current Year, the Budget Year, and the Outyears.** Federal budgeting uses a multiyear framework. At the time the budget is being considered, the fiscal year in progress is referred to as the current year; the upcoming fiscal year is called the budget year; and fiscal years after the budget year are known as the outyears.

## The Budget Baseline

An important first step in the annual budget cycle is the preparation of a budget baseline. The baseline is the projection of revenue, spending, and deficit or surplus



levels into future years based upon the *status quo*. Projections rest upon *technical assumptions* (e.g., changes in demographic patterns and program workloads) and *economic assumptions* (e.g., changes in the growth of the economy, inflation rates, and unemployment rates). They assume that policies consistent with existing law will be maintained. Thus, the baseline is an important tool for assessing policy changes inherent in budget proposals.

The executive and legislative branches each develop their own budget baselines. The baseline prepared for the President's budget is known as the *current services estimates*. Congress uses the *baseline budget projections* developed by the Congressional Budget Office.

## Executive Budgeting

The President's budget, officially referred to as the *Budget of the United States Government*, is required 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 guide 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. The Budget and Accounting Act of 1921 (P.L. 67-13; 42 Stat. 20-27), 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.

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 Budget and Accounting Act of 1921 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 Budget and Accounting Act of 1921 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 detail, 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 (approximately half of the budget authority in the budget becomes available without congressional action). The President submits 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.

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.

## **Congressional Budgeting**

The Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; 88 *Stat.* 297-339), as amended, 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.

The Congressional Budget Act of 1974, which includes many provisions that operate as rules of the House and Senate, has been amended many times. Major changes to the act occurred in the 1980s and 1990s in conjunction with legislation establishing and extending the Balanced Budget and Emergency Deficit Control Act of 1985 (also known as the Gramm-Rudman-Hollings Act) and the Budget Enforcement Act of 1990. Changes in the 1974 act were made most recently by the Budget Enforcement Act of 1997 (Title X of P.L. 105-33, the Balanced Budget Act of 1997).<sup>2</sup> Additionally, some rules of the congressional budget process have been incorporated into or augmented by the standing rules of the House and Senate.

### **Formulation and Content of the Budget Resolution**

The congressional budget process begins upon the presentation of the President’s budget in January or February (see **Table 1**). The timetable set forth in the Congressional Budget Act of 1974 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. The Congressional Budget Act of 1974 bars consideration of revenue, spending, and debt-limit measures for the upcoming fiscal year until the budget

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<sup>2</sup> For a discussion of these changes, see *Budget Enforcement Act of 1997: Summary and Legislative History*, by Robert Keith, CRS Report 97-931, October 8, 1997, 23 pages.

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).

**Table 1. Congressional Budget Process Timetable**

| <b>Deadline</b>                                 | <b>Action to be completed</b>   |
|---|---|
| First Monday in February                        | President submits budget to Congress.   |
| February 15                                     | CBO submits report on economic and budget outlook to Budget committees.                             |
| Six weeks after President's budget is submitted | Committees submit reports on views and estimates to respective Budget Committee.                    |
| April 1   | Senate Budget Committee reports budget resolution.  |
| April 15  | Congress completes action on budget resolution.   |
| June 10   | House Appropriations Committee reports last regular appropriations bill.                            |
| June 30   | House completes action on regular appropriations bills and any required reconciliation legislation. |
| July 15   | President submits mid-session review of his budget to Congress.                                     |
| October 1                                       | Fiscal year begins.   |

The Congressional Budget Act of 1974 requires the budget resolution, for each fiscal year covered, to set forth budget aggregates and spending levels for each functional category of the budget. 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;
- the deficit or surplus; 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.

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 Congressional Budget Act of 1974 allows certain additional matters to be included in the budget resolution. Perhaps the most important optional feature of a budget resolution is reconciliation directives (discussed below).

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 the Congressional Budget Office (CBO). In their initial hearings each year, the Budget committees receive testimony from the director of OMB, the secretary of the Treasury, and the chairman of the President’s Council of Economic Advisers. The CBO director also testifies. The “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, reports on the economic and budget outlook, the President’s budgetary proposals, and, in most years, spending and revenue options for reducing the deficit.

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. Specific program decisions are supposed to be left to the Appropriations committees and other committees of jurisdiction, but there is a strong likelihood that major issues will be discussed in markup, in the Budget committees’ reports, and during floor consideration of the budget resolution. 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' regular tools for enforcing the budget resolution each year are overall spending ceilings and revenue floors and committee allocations and subdivisions of spending. In addition, in recent years the Senate has enforced discretionary spending limits in the budget resolution, which parallel the adjustable limits established in statute and enforced by the sequestration process. 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 of the Congressional Budget Act of 1974, 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.

As part of the budget process changes made by the BEA of 1997, the aggregate levels set in the budget resolution, and the associated discretionary spending limits and committee spending allocations, may be adjusted periodically for various factors. The adjustments, as authorized under a new Section 314 of the Congressional Budget Act of 1974, are made pursuant to the consideration of legislation in several different categories and are meant to parallel similar adjustments made automatically in the statutory discretionary spending limits. Adjustments may be triggered by legislation in the following five categories:

- (1) measures containing designated emergency amounts of discretionary spending, direct spending, or revenues;
- (2) measures funding continuing disability reviews;
- (3) measures providing an allowance for the International Monetary Fund;

(4) measures funding arrearages for various international organizations, international peacekeeping, and multilateral development banks (but only for the period covering FY1998-2000 and subject to a limit of \$1.884 billion in budget authority); and

(5) measures providing funds for an earned income tax credit compliance initiative, subject to annual limits ranging from \$138 million for FY1998 to \$146 million for FY2002.

**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). Allocations made to the House and Senate Appropriations Committees cover only the budget year and use the discretionary spending categories established for the sequestration process. 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 13 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.

**Scorekeeping and Cost Estimates.** Scorekeeping is the process of measuring the budgetary effects of pending and enacted legislation and assessing its impact on a budget plan — in this case, the budget resolution. In the congressional budget process, scorekeeping serves several broad purposes. First, scorekeeping informs Members of Congress and the public about the budgetary consequences of their actions. When a budgetary measure is under consideration, scorekeeping information lets Members know whether adopting the amendment or passing the bill at hand would breach the budget. Further, scorekeeping information enables Members to judge what must be done in upcoming legislative action to achieve the year's budgetary goals. Finally, scorekeeping 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 Congressional Budget Act of 1974 may be sustained against legislation violating budget resolution levels.

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 scorekeeping 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 scorekeeping reports for the Budget committees. The Joint Committee on Taxation supports Congress by preparing estimates of the budgetary impact of revenue legislation.

**Points of Order.** The Congressional Budget Act of 1974 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 below the level set in the budget resolution or total new budget authority or total outlays to exceed the budgeted level. 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 Congressional Budget Act of 1974 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.

The Senate, but not the House, enforces revenue and spending levels for Social Security contained in the budget resolution. Section 311 bars the consideration of any legislation that would cause an increase in Social Security deficits, or a decrease in Social Security surpluses, relative to the levels set forth in the budget resolution, for the budget year or the full period covered by the budget resolution.

In addition to points of order to enforce compliance with the budget resolution and the allocations and subdivisions made pursuant to it, the Congressional Budget Act of 1974 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 usually 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 Congressional Budget Act of 1974. 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.

## **The Sequestration Process**

### **Establishment of the Sequestration Process**

After a decade of experience with the Congressional Budget Act of 1974, Congress faced persistent high deficits and increasing budgetary deadlock. In 1985, it enacted legislation aimed at bringing the federal budget into balance by the early 1990s. That legislation — the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177; 99 *Stat.* 1038-1101) — sometimes is referred to as the Gramm-Rudman-Hollings Act.

The 1985 Balanced Budget Act established a series of declining annual deficit targets and created an automatic spending-reduction process (known as sequestration) intended to ensure that the deficit targets are adhered to even if Congress and the President fail to reduce the deficit sufficiently through legislative action. Congress made significant changes in the 1985 act in 1987, 1990, and 1997. The Budget Enforcement Act (BEA) of 1990 (Title XIII of P.L. 101-508; 104 *Stat.* 1388-573 through 630) made major changes in conjunction with the enactment of a five-year deficit-reduction accord covering FY1991-1995. In 1993, the BEA procedures were extended through FY1998 as part of another comprehensive budget agreement between the President and Congress. Most recently, the procedures were extended through FY2002, with modifications, by the Budget Enforcement Act (BEA) of 1997 (Title X of P.L. 105-33; 111 *Stat.* 677-712), as part of a plan to balance the budget by that fiscal year.<sup>3</sup>

Sequestration involves the issuance of a presidential order that permanently cancels budgetary resources (except for revolving funds, special funds, trust funds, and certain offsetting collections) for the purpose of achieving a required amount of outlay savings to reduce the deficit. Once sequestration is triggered by an executive determination, spending reductions are made automatically; this process, therefore, is regarded by many as providing a strong incentive for Congress and the President to reach agreement on legislation that would avoid a sequester.

From its inception in 1985 until its revision by the BEA in 1990, the process was tied solely to the enforcement of fixed deficit targets. If a sequester occurred, a

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<sup>3</sup> For a discussion of these changes, see *Budget Enforcement Act of 1997: Summary and Legislative History*, by Robert Keith, CRS Report 97-931, October 8, 1997, 23 pages.

formula set forth in the 1985 Balanced Budget Act required that half the required outlay reductions be made in defense programs and half in nondefense programs. For the most part, sequestration reductions were made uniformly across the range of accounts covered by the process and were applied uniformly to programs, projects, and activities within accounts. Many accounts, involving roughly two-thirds of federal outlays, were exempt from sequestration. For certain entitlement programs, the reductions were made under special rules (for example, Medicare could not be cut more than two percent).

### **Changes Made by the Budget Enforcement Acts of 1990 and 1997**

The BEA of 1990 changed the sequestration process substantially. First, it effectively eliminated the deficit targets as a factor in budget enforcement. Second, the BEA of 1990 established adjustable limits on discretionary spending funded in the annual appropriations process. Third, the BEA of 1990 created pay-as-you-go procedures to require that increases in direct spending (*i.e.*, spending controlled outside of the annual appropriations process) or decreases in revenues due to legislative action are offset so that there is no net increase in the deficit.

The BEA of 1990 established new sequestration procedures to enforce the discretionary spending limits and the pay-as-you-go requirements. To the extent that any sequesters must be made, they will occur on the same day (which must be within 15 calendar days after Congress adjourns to end a session); sequestration of this type is referred to as “end-of-session sequestration.” Further, one or more additional sequesters may occur subsequently in the fiscal year to eliminate any breach in the discretionary spending limits; this type of sequestration is referred to as “within-session sequestration.”

Previously, the surpluses of the Social Security trust funds were included in the deficit estimates made under the 1985 Balanced Budget Act but Social Security spending (except for administrative expenses) was exempt from sequestration. Under the BEA of 1990, Social Security spending still is exempt from sequestration, but the trust fund surpluses are excluded from the deficit estimates.

The BEA of 1990 established adjustable limits on discretionary spending. For fiscal years 1991-1993, separate limits were set for new budget authority and outlays for three different categories — defense, international, and domestic. For fiscal years 1994-1998, limits on new budget authority and outlays were established for a single category — total discretionary spending. In 1994, the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322) established separate but parallel sequestration procedures for violent crime reduction programs through FY2000.

The BEA of 1997 revised the limits for FY1998 and provided new limits through FY2002. The limits are established for the following categories of discretionary spending: defense and nondefense, for FY1998-1999; discretionary (a single category), for FY2000-2002; and violent crime reduction, for FY1998-2000.

Under modifications made by the BEA of 1997, the discretionary spending limits must be adjusted periodically by the President for various factors, including (among others), changes in concepts and definitions, a special outlay allowance (to

accommodate estimating differences between OMB and CBO), and the enactment of legislation providing emergency funding and funding for the International Monetary Fund, international arrearages, an earned income tax credit compliance initiative, and other specially-designated purposes.

Enforcement of the spending limits is accomplished through a special sequestration process that is triggered automatically if the applicable spending limit is breached through the enactment of legislation. If the enactment of legislation causing a breach in the spending limits occurs during the last quarter of the fiscal year (*i.e.*, between July 1 and September 30), the appropriate discretionary spending limits for the next fiscal year are reduced by the amount of the breach.

Under the pay-as-you-go (PAYGO) process created by the BEA of 1990, legislation increasing direct spending or decreasing revenues must be offset so that the deficit is not increased. The PAYGO process does not require any offsetting action when the spending increase or revenue decrease is due to the operation of existing law, such as an increase in the number of persons participating in the Medicare program. Direct spending consists largely of spending for entitlement programs. Most direct spending and revenue programs are established under permanent law, so there is not necessarily any need for recurring legislative action on them (and the PAYGO process does not require such action).

Enforcement of the PAYGO process also is accomplished through a special sequestration procedure. The PAYGO process does not preclude Congress from enacting legislation to increase direct spending; it only requires that the increase be offset by reductions in other direct spending programs (which could include increases in offsetting receipts), by increases in revenues, or by a combination of the two in order to avoid a sequester. If a sequester under this process is required, it would have to offset the amount of any net deficit increase for the fiscal year caused by the enactment of legislation in the current and prior sessions of Congress, and would be applied to non-exempt direct spending programs.

Spending for Social Security benefits and current federal deposit insurance commitments, as well as emergency direct spending and revenue legislation (so designated by the President and by Congress in statute) that would cause a deficit increase, is exempted completely from the PAYGO sequestration process. All remaining direct spending programs are covered by the PAYGO process to the extent that legislation affecting their spending levels is counted in determining whether a net increase or decrease in the deficit has occurred for a fiscal year. If a PAYGO sequester occurs, however, many direct spending programs would be exempt from reduction.

The BEA of 1997 extended the coverage of the PAYGO requirement to legislation enacted through FY2002; however, the PAYGO process remains in effect through FY2006 to deal with the outyear effects of such measures. Consequently, a PAYGO sequester could occur in FY2003-2006 based on legislation enacted before the end of FY2002.

As originally framed, the 1985 Balanced Budget Act provided for the automatic issuance of a sequestration order by the President upon the submission of a report by

the comptroller general identifying a deficit excess. This feature of the act was invalidated by a Supreme Court ruling (*Bowsher v. Synar*, 54 USLW 5064, U.S. July 7, 1986) in 1986 on the ground that the constitutional separation-of-powers doctrine was violated because the comptroller general is a legislative branch official. Congress subsequently revised the process in the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 by placing the triggering function in the hands of the OMB director, an executive branch official.

## The Timing of Sequestration Actions

The multiple sequestration procedures established by the BEA of 1990 remain automatic and are triggered by a report from the OMB director. For sequestration purposes generally, there is only one triggering report issued each year (just after the end of the session). Additionally, OMB reports triggering a sequester for discretionary spending may be issued during the following session if legislative developments so warrant (*i.e.*, the enactment of supplemental appropriations). The CBO director must provide advisory sequestration reports, five days before the OMB director's reports are due.

The timetable for the sequestration process is set forth in **Table 2**.

Early in the session, OMB and CBO issue sequestration preview reports. The reports provide estimates of the discretionary spending limits, with the adjustments prescribed by law. Also, the reports provide estimates of any net deficit increase or decrease caused by the enactment of direct spending or revenue legislation subject to the PAYGO process. In August, OMB and CBO issue sequestration update reports to reflect the impact of legislation enacted during the interim. Finally, OMB and CBO issue sequestration reports shortly after Congress adjourns to end the session. The end-of-session reports must reflect any pertinent legislation enacted since the update reports were issued and must indicate the baseline amount of budgetary resources and the amount and percentage of the reduction for each account subject to sequestration.

In preparing its update and final sequestration reports, OMB must use the economic and technical assumptions that were used in the earlier preview report. During the course of the session, OMB must provide Congress with cost estimates of budgetary legislation within five days of its enactment, so that compliance with the discretionary spending limits and PAYGO requirements can be monitored. The cost estimates must be based on the economic and technical assumptions used in the President's most recent budget.

Several other reports are associated with the sequestration process. For example, within-session sequestration reports may be issued by CBO and OMB (no later than July 10 and July 15, respectively) if supplemental appropriations or other discretionary spending is enacted that causes a breach in a discretionary spending limit. Also, the comptroller general must issue a compliance report, if requested by either the House or Senate Budget Committee, evaluating whether the OMB and CBO reports and the presidential order comply with the requirements of the act.

Any sequestration order issued by the President must follow the OMB sequestration report strictly.

**Table 2. Sequestration Process Timetable**

| <b>Deadline</b>                                 | <b>Action to be completed</b>  |
|---|--|
| 5 days before the President's budget submission | CBO issues sequestration preview report.   |
| Date of the President's budget submission       | OMB issues sequestration preview report (as part of the President's budget).                 |
| August 10                                       | President notifies Congress if he intends to exempt military personnel accounts.             |
| August 15                                       | CBO issues sequestration update report.  |
| August 20                                       | OMB issues sequestration update report.  |
| 10 days after end of session                    | CBO issues final sequestration report.   |
| 15 days after end of session                    | OMB issues final sequestration report;<br>President issues any required sequestration order. |

Sequestration procedures may be suspended in the event a declaration of war is enacted or if Congress enacts a special joint resolution triggered by the issuance of a CBO report indicating "low growth" in the economy. Also, there are several special procedures under the act by which the final sequestration order for a fiscal year may be modified or the implementation of the order affected.

## **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.

In recent years, many of the most significant changes in direct spending programs, from a budgetary standpoint, have been made in the reconciliation process (see discussion below). The greatest number of spending decisions in any year occurs in the annual appropriations process.

## 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 provides that “No 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.

In the federal government, an appropriation makes funds available for obligation; it does not usually require that outlays be made in any particular fiscal year. Outlays often ensue years after the appropriations are obligated.

The President requests annual appropriations in his budget submitted in January or February of 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 provide budget authority to agencies for the next fiscal year. *Supplemental* appropriations 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 provide stop-gap (or full-year) funding for agencies that have not received a regular appropriation by the start of the fiscal year.

In a typical session, Congress acts on more than 16 appropriations measures, including 13 regular appropriations bills and at least two supplemental appropriations measures. Because of recurring delays in the appropriations process, Congress 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 some years, a continuing appropriations measure has been turned into an omnibus measure for enactment of regular appropriations bills.

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 13 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 Congressional Budget Act of 1974.

The Senate usually considers appropriations measures after they have been passed by the House. Hearings in the Senate Appropriations subcommittees generally are not as extensive as those held by counterpart subcommittees in the House. When the Senate (either in committee or on the floor) changes a House-passed appropriations measure, it does so by inserting consecutively-numbered amendments. The conference to resolve differences in the measures passed by the two chambers considers each of the numbered amendments. Congressional action on a measure is not complete until both the House and Senate have successfully disposed of all numbered amendments.

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.

Although appropriations accounts often span many activities, each agency supplements account-level data with detailed budget justifications. While agencies have discretion to vary their actual expenditures from the detailed supporting schedules, the Appropriations committees expect them to adhere to their justifications to the extent practicable. When an agency shifts funds from one program to another in the same account, it must go through reprogramming procedures. Less significant changes are handled informally, or by the agency unilaterally, but there has been a pronounced trend for Congress to hold agencies more closely to the spending patterns set forth in their budget justifications.

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. In recent years, these instructions have tended to become more numerous and specific.

## **Revenue and Debt-Limit Legislation**

### **Revenue Legislation**

Article I, Section 8 of the U.S. 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 Committee on Taxation) 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. Congress generally may not consider legislation increasing or decreasing revenues for the next fiscal year until it has adopted the budget resolution for that year. Congress sometimes waives this requirement — in the House, usually by means of a special rule reported by the Rules Committee; in the Senate, usually by unanimous consent or by a waiver motion authorized by the Congressional Budget Act of 1974.

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. These specific decisions are made in the revenue legislation reported by the House and Senate committees with jurisdiction over such matters.

The House and Senate periodically 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), such revenue legislation may be considered on a separate legislative track (*e.g.*, the Tax Equity and Fiscal Responsibility Act of 1982).

Occasionally, congressional leaders may decide that the Senate should take the initiative on particular revenue matters. Congress can accommodate this strategy, without violating the constitutional requirement that revenue matters originate in the House, by attaching the Senate's revenue initiatives to a minor House-passed revenue bill. As a general matter, however, the House carefully guards its constitutional prerogative.

In enacting revenue legislation, Congress often establishes or alters tax expenditures. The term "tax expenditures" is defined in the Congressional Budget Act of 1974 to include revenue losses due to deductions, exemptions, credits, and other exceptions to the basic tax structure. Tax expenditures, as discussed previously, are a means by which the federal government pursues public objectives and can be regarded as alternatives to other policy instruments such as grants or loans. Tax expenditures are classified by budget function to facilitate the comparison of spending programs and tax expenditures. The Joint Committee on Taxation estimates the

revenue effects of legislation changing tax expenditures, and it also publishes five-year projections of these provisions as an annual committee print.

## **Debt-Limit Legislation**

When the revenues collected by the federal government are not sufficient to cover its expenditures, it must finance the shortfall through borrowing. Federal borrowing is subject to a public debt limit established by statute. As long as the federal government continues to operate with a budget deficit, the public debt limit must be increased periodically. Failure to increase the debt limit in a timely manner could lead to inefficient, stop-gap financing practices by the Treasury Department and eventually to default. The frequency of congressional action to raise the debt limit has ranged in the past from several times in one year to once in several years.

Legislation to raise the public debt limit falls under the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee. Although consideration of such measures in the House usually is constrained through the use of special rules, Senate action sometimes is far-ranging with regard to the issues covered. In the past, the Senate has added many non-germane provisions to debt-limit measures, such as the Balanced Budget and Emergency Deficit Control Act of 1985.

In 1979, the House amended its rules to provide for the automatic engrossment of a measure increasing the debt limit upon final adoption of the conference report on the budget resolution. The rule, House Rule XLIX (commonly referred to as the Gephardt rule, after its sponsor, Representative Richard Gephardt), was intended to facilitate quick action on debt increases. However, the Senate has no comparable rule and often considers such legislation thoroughly, if not at length. The House and Senate may enact debt-limit legislation originating under the Gephardt rule or arising under conventional legislative procedures. In some instances, Congress has enacted debt-limit increases as part of omnibus budget reconciliation legislation.

## **Reconciliation Legislation**

Beginning in 1980, Congress has used reconciliation legislation to implement many of its most significant budget policies. Section 310 of the Congressional Budget Act of 1974 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 18 calendar years covering 1980 through 1997, 14 omnibus reconciliation measures were enacted into law.

The reconciliation process has two stages: (1) the adoption of reconciliation instructions in the budget resolution; and (2) 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 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, with separate dollar amounts specified for each of the years.

The dollar amounts are computed with reference to the CBO baseline. Thus, a change represents the amount by which revenues or spending would increase or decrease 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 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. Thus, it has to satisfy separately the instruction for budget authority and outlays for each fiscal year covered by the instructions.

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 Congressional Budget Act of 1974 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 Congressional Budget Act of 1974 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 Congressional Budget Act of 1974 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. Additionally, non-germane amendments may not be offered in either chamber.

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 the Byrd rule (named after its principal sponsor, Senator Robert C. Byrd) 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 Congressional Budget Act of 1974 as Section 313 and made permanent (2 *U.S.C.* 644).

A Senator opposed to the inclusion of extraneous matter in reconciliation legislation has two principal options for dealing with the problem. First, the Senator may offer an amendment (or a motion to recommit the measure with instructions) that strikes such provisions from the legislation. Second, under the Byrd rule, the Senator may raise a point of order against extraneous matter. In general, a point of order authorized under the Byrd rule may be raised to strike extraneous matter already in the bill as reported or discharged (or in the conference report), or to prevent the incorporation of extraneous matter through the adoption of amendments or motions. A motion to waive the Byrd rule, or to sustain an appeal of the ruling of the chair on a point of order raised under the Byrd rule, requires the affirmative vote of three-fifths of the membership (60 Senators, if no seats are vacant).

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 has used special rules to make in order amendments that strike such matter.

## 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. Hence, 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 (Title X of the Congressional Budget and Impoundment Control Act of 1974, as amended) 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 Impoundment Control Act of 1974 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 Impoundment Control Act of 1974, in practice they are limited to major actions that affect the level or rate of expenditure. If every “action or inaction” — the phrase used in the Impoundment Control Act of 1974 — that slowed the rate of expenditure were deemed to be an impoundment, there probably would be many thousands of impoundments each year. In fact, at most only a few hundred are reported. 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.

A particularly difficult-to-identify impoundment occurs when the rate or level of spending is deliberately slowed through indirect administrative means. For example, if an agency cuts the size of the staff processing grant applications it might spend less on grants than the amount provided by Congress, even if it does not expressly impound the funds. These actions have come to be known as “de facto” impoundments.

**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 Impoundment Control Act of 1974 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; 110 *Stat.* 1200-1212) was enacted as an amendment to the Impoundment Control Act of 1974. Initially, proponents of the legislation had sought to empower the President to veto individual items of appropriation, largely as an antidote to what was perceived as unnecessary, wasteful, and unjustified spending added to appropriations bills by the House and Senate. This authority was widely described as comparable to that possessed by the governors of most states.

The authority granted to the President under the Line Item Veto Act differs markedly from the veto authority available to most chief executives at the state level. First, the President may not veto individual parts of legislation. Under normal constitutional procedures, the President must approve or veto any measure in its entirety. His authority to use the line-item veto comes into play only after a measure has been signed into law. Second, this authority applies not only to annual appropriations, but extends to new entitlement spending and targeted tax benefits as well. The line-item veto authority is in effect for 8 years, from the beginning of 1997 through the end of 2004.

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

President Clinton exercised line-item veto authority for the first time on August 11, 1997, in cancelling an item of direct spending in the Balanced Budget Act of 1997 and two limited tax benefits in the Taxpayer Relief Act of 1997. Later that session, he used the line-item veto to cancel dozens of discretionary spending projects in several of the regular appropriations acts for FY1998.<sup>4</sup>

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<sup>4</sup> These actions are discussed in *Congressional Budget Actions in 1997*, by Robert Keith, CRS Issue Brief 97008, updated regularly.

## For Additional Reading

### Glossaries

The General Accounting Office is required by statute to develop, maintain, and publish periodically a budget glossary for the federal government. (This requirement, found in 31 U.S.C. 1112, was added to the Legislative Reorganization Act of 1970 by Section 801(a) of the Congressional Budget Act of 1974 (88 Stat. 327-328).) The most recent glossary, *A Glossary of Terms Used in the Federal Budget Process* (GAO/AFMD-2.1.1), was issued in January 1993.

In addition to the GAO glossary, the Office of Management and Budget includes a glossary in its *Analytical Perspectives* volume of the annual budget submission, the Congressional Budget Office appends a glossary to its annual report on *The Economic and Budget Outlook*, and the Congressional Research Service's manual on the federal budget process (cited below) provides a glossary in Appendix D.

Finally, many private publications contain budget glossaries. For example, terms associated with the legislative process, including many budgetary terms, are defined in Congressional Quarterly's *American Congressional Dictionary* (second edition), prepared originally by Walter Kravitz in 1993 and revised in 1997.

### Congressional Research Service Products

The most extensive explanation of the federal budget process prepared by the Congressional Research Service is provided in the following reports:

- *Manual on the Federal Budget Process*, by Allen Schick, Robert Keith, and Edward Davis. CRS Report 91-902 GOV, December 24, 1991, 218 pages; and
- *Budget Process Changes Made in the 102nd-103rd Congresses (1991-1994)*, by Robert Keith and Edward Davis. CRS Report 95-457 GOV, March 31, 1995, 14 pages.
- *Budget Process Changes Made in the 104<sup>th</sup> Congress (1995-1996)*, by Robert Keith. CRS Report 97-44, December 27, 1996, 19 pages.

As mentioned above, the 1991 CRS manual includes a budget glossary. The other two CRS reports update the explanation of the budget process through the 104<sup>th</sup> Congress. A fully revised and updated version of the manual will be issued in 1998. Many other CRS products and services, including reports and issues briefs, videotapes, and seminars, are available on different facets of the federal budget process.