

JULY 25, 2019

H.R. 3877 – THE BIPARTISAN BUDGET ACT OF 2019

 share  tweet  email  print

NOTEWORTHY

Background: The Budget Control Act of 2011 established caps on discretionary spending, enforced by sequester, for the 10-year period 2012-2021. Those caps are further reduced every year by approximately \$89 billion combined — a penalty imposed by the failure of a bicameral, bipartisan committee to find additional savings. Congress has acted multiple times to ease the spending reductions, but there is no agreement in place for 2020 or 2021. Without a legislative fix, appropriators will have to cut 2020 discretionary spending by \$125 billion, \$71 billion from defense and \$54 billion from nondefense, below 2019 enacted levels to avoid an automatic sequester of funds starting in January.

Separately, Treasury Secretary Mnuchin has sent multiple requests to Congress asking for an increase in the statutory debt limit as soon as possible to prevent a potential default in early September. On July 22, Speaker of the House Pelosi and President Trump announced the terms of a deal that would address both the discretionary caps and the statutory debt limit.

Floor Situation: H.R. 3877 is the shell for the combined spending cap and debt limit deal. The House passed the measure on July 25 by a vote of 284-149. Majority Leader McConnell has said the Senate will consider the measure before the August recess.

Executive Summary: H.R. 3877 would increase the discretionary spending caps for 2020 and 2021 by a combined total of \$322 billion over current law.

1. Regular (base) discretionary spending would be capped at \$1,288 billion in 2020 (+\$168.6 billion) and \$1,298 billion in 2021 (+\$152.9 billion).
2. The cap for the defense category would be \$666.5 billion in 2020 (+\$90.3 billion) and \$671.5 billion in 2021 (+\$81.3 billion).
3. The cap for the nondefense category would be \$621.5 billion in 2020 (+\$78.3 billion) and \$626.5 billion in 2021 (+\$71.6 billion).

In addition, the bill would:

1. Establish guidance for levels of spending designated for “overseas contingency operations” for 2020 and 2021;

2. Create a one-time \$2.5 billion cap adjustment for the census in 2020;
3. Reduce direct spending by \$77.3 billion in budget authority and \$54.5 billion in outlays;
4. Suspend the statutory debt limit for two years until July 31, 2021;
5. Permit the House and Senate to deem spending levels for 2020 and 2021;
6. Revise or extend certain budget-related points of order in the House and Senate;
7. Eliminate a potential \$3.2 billion mandatory sequester at the end of this calendar year; and
8. Prevent the savings in H.R. 3877 from being recorded on the statutory and Senate PAYGO scorecards.

OVERVIEW OF THE ISSUE

In 2011, Congress and President Obama agreed to place limits on discretionary spending for 10 years in exchange for a \$2.1 trillion increase in the statutory debt limit. The resulting legislation, the **Budget Control Act**

of 2011, imposed caps on two categories of discretionary spending — security (broadly defined) and nonsecurity — enforced by sequestration for fiscal years 2012-2021.

The agreement also tasked a bipartisan, bicameral Joint Select Committee on Deficit Reduction with finding at least \$1.2 trillion in additional savings. When the joint committee failed to reach an agreement, the BCA imposed a \$1.2 trillion penalty in the form of reduced caps on redefined categories of spending: defense (narrowly defined) and nondefense.

Each year until 2021, the BCA sequester reduces the discretionary spending caps by approximately \$89 billion – \$54 billion for defense and \$35 billion for nondefense. Since 2014, Congress has negotiated two-year spending **deals** to avoid most of these cuts.

Cap Increases in Prior Budget Agreements
(Budget Authority, \$ billions)

	2014	2015	2016	2017	2018	2019
Defense	22	9	25	15	80	85
Nondefense	22	9	25	15	63	68
Total	45	18	50	30	143	153

Totals may not add due to rounding

The 2018 agreement, which set the discretionary cap levels for 2018-2019, raised the defense and nondefense caps beyond the BCA pre-sequester levels for those years. Consequently, appropriators would have to cut 2020 discretionary spending by an even larger amount — \$125 billion, with \$71 billion from defense discretionary spending and \$54 billion from nondefense — from 2019 enacted levels to avoid a sequester next January.

In addition to raising the discretionary spending caps, Congress needs to address the statutory **debt limit**. The current limit of \$22 trillion was established on March 2, when the previous debt limit suspension period expired and the ceiling was reset to reflect the current amount of debt outstanding. As of July 22, total **debt** subject to limit was within about \$25 million of the limit. The Treasury Department is exercising “extraordinary measures” to avoid default, but its financial models predict at least one scenario in which it will not have sufficient operating cash to meet expenses in early September. As a precaution, Secretary Mnuchin has **requested** that Congress address the debt limit before the August recess.

CONSIDERATIONS

Amount of the cap increase. The budget agreement would increase the 2020 and 2021 caps by a combined \$322 billion relative to current law: \$169 billion in 2020 and \$153 billion in 2021. Budget scoring rules measure the cost of legislation relative to the baseline of current law.

Regular Appropriations Limits			
<i>(BA, \$ billions)</i>			
	2019	2020	2021
BCA (post-sequester)			
Defense	647	576	590
Nondefense	597	543	555
Total	1,244	1,119	1,145
BBA19			
Defense	647	667	672
Nondefense	597	622	627
Total	1,244	1,288	1,298
Increase			
Defense	0	90	81
Nondefense	0	78	72
Total	0	169	153
FY 2020-2021			
Cap Deal Total		322	

Totals may not add due to rounding

When compared to the 2019 enacted levels, however, the increase is more modest: \$98 billion over the next two years, with \$44 billion in 2020 and \$54 billion in 2021. The year-over-year increase totals \$54 billion over the two-year period, with \$44 billion in 2020 and \$10 billion in 2021.

Certainty. A two-year cap deal combined with a two-year suspension of the debt limit would help propel strong economic growth through 2021 and beyond. The cap deal will permit the appropriations process to move forward in an orderly and timely fashion and reduce the threat of a government shutdown. A debt limit deal will prevent echoes of the financial market chaos that surrounded the debt limit impasse in 2011, when stock market declines caused household wealth to fall \$2.4 trillion and retirement assets to lose \$800 billion in value.

Offsets. Budget deals in 2013 and 2015 included provisions that offset the cost of the cap increases with a mix of spending cuts and fee increases. The 2018 cap deal, however, broke with tradition and covered only a fraction of its cost. The offsets in BBA19 total \$77.3 billion in budget authority and \$54.5 billion in outlays, which is less than the cap increase. These come from extending the imposition of fees on cargo and passengers arriving in the U.S. (\$16 billion) and extending the BCA mandatory sequester two years, from 2027 to 2029 (\$62 billion). According to the CBO **score**, savings will materialize in the last years of the budget window.

The other sequester. The Statutory **Pay-As-You-Go** Act of 2010 requires OMB to track the cost of direct spending and revenue legislation that becomes law. Similar to the BCA, statutory PAYGO includes a mandatory spending sequester that is triggered when, at the end of a session of Congress, one or both of the OMB scorecards show a positive balance in the current fiscal year. According to the most recent OMB statutory PAYGO **scorecards**, unless Congress enacts legislation that reduces the deficit by \$3.2 billion in 2020 before the end of this session of Congress, a sequester of nonexempt mandatory spending would be ordered in January 2020. H.R. 3877 includes a provision that would zero out the OMB statutory PAYGO scorecards and avert the potential sequester.

Scorekeeping. Under budget scoring rules, an increase in the discretionary spending caps does not score because the cap deal does not appropriate funds itself. Rather, it sets the limit on how much can be spent. The budgetary effects are recorded against the actual appropriations bills that follow. Consequently, the offsets in H.R. 3877 would appear as savings that, if

booked on various PAYGO scorecards, could be used to offset future legislation that increases the deficit. To prevent this, H.R. 3877 prohibits its budgetary effects from being recorded on any of the PAYGO scorecards.

NOTABLE BILL PROVISIONS

TITLE I – SPENDING CAPS, CAP ADJUSTMENTS, STATUTORY PAYGO SEQUESTER

Revises the regular (base) discretionary cap levels for 2020 and 2021 for the defense and nondefense categories.

1. Regular (base) discretionary spending would be capped at \$1,288 billion in 2020 (+\$169 billion) and \$1,298 billion in 2021 (+\$153 billion).
2. The cap for the defense category would be \$666.5 billion in 2020 (+\$90.3 billion) and \$671.5 billion in 2021 (+\$81.3 billion).
3. The cap for the nondefense category would be \$621.5 billion in 2020 (+\$78.3 billion) and \$626.5 billion in 2021 (+\$71.6 billion).

Legislates guidance for topline numbers for spending that could be designated for overseas contingency operations in 2020 and 2021. Specifically, OCO-designated spending would be capped at:

1. \$79.5 billion in 2020 — \$71.5 billion for defense and \$8.0 billion for nondefense; and
2. \$77.0 billion in 2021 — \$69.0 billion for defense and \$8.0 billion for nondefense.

Creates a one-time \$2.5 billion cap adjustment for the decennial census in 2020.

Zeroes out OMB's statutory PAYGO scorecards.

TITLE II – ESTABLISHING A CONGRESSIONAL BUDGET

Provides the chairmen of the House and Senate Budget committees with the authority to deem spending levels for 2020 and 2021 at levels consistent with the cap deal and the relevant CBO baseline. Also known as 302(a) allocations, these numbers permit the Appropriations Committee in each chamber to set its 302(b) allocations and begin drafting appropriations bills.

In the Senate, provides the chairman of the Budget Committee with the option to include in the 2020 or 2021 deemer any of the deficit-neutral reserve funds that were originally included in the 2018 **budget resolution**, updated to reflect the new budget window.

In the Senate, renews or revises three existing budget-related points of order.

1. Extends the current point of order against certain advance appropriations.

2. Extends the Senate’s “changes in mandatory programs” point of order through 2021 at the current \$15 billion limit.
3. Renews a surgical strike point of order against the OCO designation. A similar point of order was included in the 2018 congressional budget resolution.

TITLE III – DEBT LIMIT

Suspends the statutory debt limit for two years until July 31, 2021. Treasury’s “extraordinary measures” could postpone the need to raise the debt limit another five or six months past this date, effectively giving Congress a 2.5-year reprieve on the debt limit.

TITLE IV – OFFSETS

Extends customs user fees on cargo and passengers arriving in the United States, \$15.6 billion in budget authority and outlays over 10 years.

Extends the BCA mandatory sequester two years from 2027 to 2029, \$61.8 billion in budget authority and \$39 billion in outlays over 10 years.

Total savings would be \$77.3 billion in budget authority and \$54.5 billion in outlays over the budget window.

TITLE V – SCOREKEEPING/BUDGETARY EFFECTS

Prevents the budgetary effects of H.R. 3877 from being recorded on the statutory PAYGO or Senate PAYGO scorecards.

ADMINISTRATION POSITION

The White House has not yet released a Statement of Administration Policy for H.R. 3877. Treasury Secretary Mnuchin has **said** that the president will sign the bill, and the president has tweeted his **support**.

COST

Under budget scoring rules, changes in the discretionary spending caps do not score. H.R. 3877 increases the amount of discretionary funds that can be spent in the future but does not actually appropriate any new money. The budgetary effects of the cap increases will be carried by the subsequent appropriations bills. The offsets do score, however, and the Congressional Budget Office **estimates** that those provisions would reduce direct spending by \$77.3 billion in budget authority and \$54.5 billion in outlays over the 10-year period of 2020-2029.

ISSUE TAG: SENATE
