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DISCRETIONARY SPENDING AND THE CONGRESSIONAL BUDGET PROCESS: AN EXPLAINER

House Committee on the
BUDGET
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This document has not been reviewed and approved by the Democratic Caucus of the Budget Committee and may not necessarily reflect the views of all members.



The development of the annual Congressional budget resolution provides an opportunity to discuss trade-offs and establish big-picture priorities. However, for the past decade, discretionary spending limits have been dictated by the Budget Control Act of 2011 (BCA) and follow-on legislation that sought to mitigate its dangerously austere requirements.

The Bipartisan Budget Act of 2019, which set new topline through the expiration of these statutory spending caps, finally closed the door on an era of self-inflicted austerity. This year, a deeming resolution was used to temporarily set the topline discretionary number so appropriators could begin their work while Congress continues to develop a budget for 2022 that reflects the needs of the American people. Once adopted by the House and Senate, the concurrent resolution on the budget for fiscal year 2022 will supersede the provisions in the deeming resolution, and Congress can return to the budgeting process laid out in the Congressional Budget Act of 1974 (BCA), detailed below.

THE BUDGET RESOLUTION SETS THE TOPLINE FOR DISCRETIONARY SPENDING

The annual budget resolution is Congress' budget plan. It is a **concurrent resolution** and thus does not require the President's signature. The resolution lays out a vision for spending by major functional category as well as revenues and the resulting deficits and debt. The functional distribution is illustrative: it reveals Congressional priorities but is not binding through the rest of the process. The budget resolution itself does not include specific detail below the functional level. The **committee report** accompanying the budget resolution displays the assumed division of function totals into mandatory and discretionary categories. Budget Committee reports and factsheets may provide additional information on non-binding assumptions, including some program areas where specific funding level goals may be identified. However, these reports are not meant to provide comprehensive detail for all programs or develop account-level information.

What is discretionary spending?

Discretionary spending is controlled through the annual appropriations process and includes funding for both national defense and non-defense. Non-defense discretionary programs, or NDD, includes a wide variety of activities including scientific research, housing assistance, veterans' health care, education, and transportation.



Section 302(a) of the CBA calls for budget resolution spending levels to be allocated across Congressional committees, including the Appropriations Committee, and these allocations are enforceable through **points of order**. The **302(a) committee allocations** are included in explanatory materials accompanying a conference report or separately filed in the Congressional Record. The allocation to the Appropriations Committee sets the level of discretionary spending – both budget authority and outlays – for the budget year. House enforcement procedures only apply to budget authority. The budget resolution often allows for adjustments to the initial allocation, discussed further below. The Senate uses the budget resolution procedures to enforce both budget authority and outlay allocations.¹

THE APPROPRIATIONS COMMITTEE SETS THE LEVELS FOR ITS SUBCOMMITTEES

The House and Senate Appropriations Committees each have 12 subcommittees, with most covering all or part of Cabinet agencies along with other entities generally focused on related programmatic areas. One of the subcommittees covers the Legislative Branch. The subcommittees in the House and Senate are closely aligned, with only one agency assigned differently: the Commodity Futures Trading Commission is assigned to the House Agriculture Subcommittee but the Senate Financial Services Subcommittee. Section 302(b) of the CBA requires that each Appropriations Committee divide the amount provided to them under the budget resolution – the 302(a) allocations – across their subcommittees, creating **302(b) allocations**. There is no requirement that the House and Senate provide the same initial allocations to their subcommittees. However, before the Appropriations process is completed for the year, the House and Senate will need to pass the same version of these bills. The distribution of funds by subcommittee is part of the negotiation process to reach that end.

Once the 302(b) allocations are in place, the Appropriations Committee can begin allocating funding to the individual account level and reporting its bills. At any time during this process, the Appropriations Committee can report a revised set of allocations across their subcommittees. At times, the budget resolution also allows for an additional allocation if certain conditions are met (discussed below).

¹ This explainer focuses on discretionary spending. For information about how the budget resolution enforces changes in mandatory spending and revenues, see [Budget Reconciliation: The Basics](#).



CERTAIN DISCRETIONARY SPENDING MAY BE TREATED DIFFERENTLY

Over time, there have been programmatic elements of discretionary spending that have gotten individualized rules, either through enacted law – including the BCA – or through provisions of the budget resolution. While the details have varied, the goal is always the same: allowing funding that meets certain criteria to be provided outside of the initial allocation to the Appropriations Committee. The rationale has also varied. Some recent examples are described below.

- **Program integrity initiatives:** This funding is used to ensure appropriate use of government funds, reduce payment errors, and combat fraud and abuse. For example, the BCA allowed for an allocation adjustment for funding up to a specified amount for the Social Security Administration to conduct additional continuing disability reviews (CDRs). Dollars spent on CDRs generate savings through reduced Disability Insurance or Supplemental Security Income payments. There is a similar provision for funds that allow more work to weed out fraud and abuse in health care programs. Although not in the BCA, an earlier program integrity initiative allowed for an adjustment for additional Internal Revenue Service enforcement funding to help ensure that taxes owed are paid. Such an adjustment for the IRS has been supported by Administrations from both parties, is included in this year's deeming resolution, and is a candidate for inclusion in this year's budget resolution process, along with continuation of the BCA adjustments.
- **Disaster relief:** A basic level of disaster relief to meet typical needs was often underfunded in Appropriations acts because the need was not immediate, pushing Congress to give it less weight than other programs with more immediate needs. This could slow down federal response to disasters since a source with transferable funds would need to first be identified or else Congress would have to enact supplemental appropriations after a disaster occurred. The BCA added a new adjustment to provide protection for average levels of disaster relief, so it no longer has to compete with other programs. More recently, a similar adjustment was provided for wildfire fighting funds. Providing this money as an



adjustment outside the initial allocation prevents a reduction of funds from other programs in the firefighting agencies in order to fund essential firefighting responsibilities when they occur. The purposes of these adjustments remain relevant.

- **Emergency funding:** Funding intended to respond to emergencies has the broadest exemption from discretionary limits. In the House, amounts designated as emergency in appropriations bills are excluded when measuring compliance with the budget resolution, with no limit on the amount that can be designated. This treatment was designed to speed response to catastrophic events and continues to provide needed flexibility when emergencies arise.
- **Overseas contingency operations:** This category was originally established to fund operations in Iraq and Afghanistan in a way that would keep them separate from ongoing base defense funding. Over time, however, it has become a funding source outside of the initial allocation that has covered much broader purposes, much of which are more legitimately considered part of base levels of national security. The Biden Administration has proposed moving all of this funding back into the base level covered by the initial allocation as a way to increase accountability and more accurately reflect the purpose of funds. This year's deeming resolution did not allow for any adjustment for this category.