Budget Process in a Nutshell

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Charles S. Konigsberg JD, founder of Appropriations.com, GovBudget.com, and FedTaxPortal.com, served as Assistant Director and Senate Liaison at the White House Office of Management and Budget for three successive Budget Directors, General Counsel at Senate Finance Committee, Minority Chief Counsel at Senate Rules & Administration Committee, Staff Attorney at Senate Budget Committee, Director of Congressional Affairs at the Corporation for National Service, Director of the National Bipartisan Debt Reduction Task Force, and currently serves as Analyst on Congress and the Legislative Process at the Congressional Research Service.

Introduction

The congressional budget process, established by the Congressional Budget and Impoundment Control Act of 1974 (Budget Act; P.L. 93-344), was designed to be result-neutral. It gave Congress tools to evaluate and make changes to fiscal policy: House and Senate Budget Committees, Concurrent Resolutions on the Budget "Budget Resolution" and the Congressional Budget Office (CBO). The Budget Act was not designed to promote a particular fiscal policy.

Subsequent budget laws have added new procedures aimed at specific fiscal objectives. In 1985, the Balanced Budget and Emergency Deficit Control Act (BBEDCA, P.L. 99-177) sought to balance the federal budget through statutory maximum deficit amounts (deficit caps), and created the budget sequester mechanism—automatic across-the-board cuts in nonexempt budget accounts—to incentivize and enforce the intended result.

In 1990 Congress shifted its budget control strategy from deficit caps to controlling the growth of spending and deficits. The Budget Enforcement Act of 1990 (BEA; P.L. 101-508) established statutory limits on *discretionary* spending (programs funded through annual appropriations). The BEA also established a new "pay-as-you-go" (PAYGO) requirement that legislation providing new *mandatory* spending, or reducing *revenues*, must be paid for with offsets. Violation of the discretionary spending caps, or the PAYGO requirement, were enforced using the sequester mechanism.

With the emergence of budget surpluses in the late 1990s, spending caps and PAYGO were allowed to expire in FY2002. By the end of the decade, however, concerns over budget deficits in the wake of the financial crisis and recession led to enactment of a new, permanent PAYGO statute in 2010, and new budget control legislation in 2011.

The Budget Control Act of 2011 (BCA; P.L. 112-25) established new discretionary spending caps for each year through FY2021 estimated to save $917 billion over ten years. The BCA also established a Joint Select Committee on Deficit Reduction (Joint Committee) to negotiate another $1.5 trillion in budget savings by December of 2011. As a fallback, the BCA provided that automatic spending reductions would be triggered if Congress did not enact at least $1.2 trillion in Joint Committee budget savings by January 15, 2012.

The 2012 deadline was not met and $1.2 trillion in Joint Committee automatic reductions were triggered. The BCA applied most of the automatic budget savings to discretionary spending through reductions in the spending caps (often called "sequester caps"), and the remainder of the savings were applied to mandatory spending through annual sequestration (across-the-board cuts).

Subsequent legislation (four Bipartisan Budget Acts or "BBAs") have partially or fully rolled back the automatic discretionary cap reductions that were to take effect in each year through FY2021. However, the annual sequester of *mandatory* spending has been implemented each year—and extended nine years through FY2030.

This publication provides a brief overview of the budget process.

The President's Budget

The President's Budget is ordinarily transmitted to Congress each year on the first Monday of February. Preparation of the President's Budget typically begins nine months prior to transmittal. For example, formulation of the President's FY 2021 Budget (which was transmitted to Congress in February 2020) began in the spring of 2019 when the President's Office of Management and Budget (OMB) issued guidance to the various departments and agencies to develop budget proposals based on the President's priorities and goals.

After several months of examining program needs and priorities, each department and agency submits to OMB its initial budget request in early fall. OMB then conducts a review of agency budget requests and combines them—with OMB modifications—into a complete set of budget proposals.

Following an opportunity for agencies to review the OMB draft budget (called "passback") and to appeal issues of concern to the OMB Director and the President, OMB makes final adjustments to the budget and transmits the multi-volume documents to Congress on the first Monday of February (or later, in the case of new Administrations). At the same time, federal departments and agencies release "Congressional Budget Justifications" to explain their budget requests to the congressional committees and subcommittees with jurisdiction over their programs and operations.

Elements of a President's Budget are often incorporated into the State of the Union Address just prior to budget transmittal.

Congressional Budget Resolution

Following the State of the Union and transmittal of the President's Budget requests, Congress begins its own budget process for making fiscal policy decisions on total spending and revenue levels, spending for individual programs, and changes – if any – to entitlement programs and the tax code.

The Senate and House Budget Committees hold public hearings in February at which they receive testimony on the President's Budget proposals from Administration officials, outside experts, advocacy groups, trade associations, other interest groups, Members of Congress, and the public. At the same time, the other committees of Congress review the President's Budget proposals and justifications and transmit to the Budget Committees their own "views and estimates" on appropriate spending or revenue levels for programs within their respective jurisdictions.

The Senate and House Budget Committees – using the President's Budget requests, information from their hearings, views and estimates from other committees of Congress, and projections from the Congressional Budget Office – draft their respective versions of a "Congressional Budget Resolution" in a series of working meetings known as committee "mark-ups." (However, in some years, the Budget Committees have opted *not* to proceed with a Budget Resolution.)

Discretionary v. Mandatory Spending

- Budget authority (BA) is the authority Congress provides federal agencies to enter into financial obligations that will result in immediate or future outlays. There are two general categories of budget authority—discretionary and mandatory.
- Discretionary spending is budget authority provided through the annual appropriations bills and comprises about 30% of federal spending.
- Mandatory spending and interest on the debt is the other 70% of federal spending that flows *directly* from multiyear authorizing laws (and is therefore sometimes called "direct spending"). It is enacted outside the annual appropriations process and includes entitlement programs, nutrition assistance (SNAP) and multiyear highway bills,

It is important to understand that the Budget Resolution does *not* become a law and therefore is not presented to the President for signature. Rather, it is a congressional blueprint to guide subsequent action on specific spending and revenue measures. The Budget Resolution:

(1) sets total federal spending and revenue levels;
(2) allocates spending to each committee including a lump-sum to the Appropriations Committees for all "discretionary" spending;
(3) establishes procedures to enforce the budget blueprint; and
(4) *may include optional* special provisions called "budget reconciliation instructions" aimed at expediting changes to mandatory spending programs or tax laws through a filibuster-proof "budget reconciliation bill."

Budget Reconciliation Instructions to Change Entitlement Programs and Tax Law

Reconciliation instructions direct House and Senate authorizing committees to report, by a deadline, changes in mandatory spending or revenue programs within their jurisdiction that *achieve specified spending, revenue, or deficit changes expressed as specific dollar targets*. While specific policy changes are "assumed" by the Budget Committee when the dollar targets are drafted, the authorizing committees need not – and often do not – follow the Budget Committee assumptions; they have complete discretion in how to achieve their reconciliation instructions as long as they meet their targets.

For example, the Budget Resolution could direct the Senate Finance and House Ways & Means Committees to report legislative provisions that make changes in programs within their jurisdiction that change spending and/or revenue levels by $____ billion or achieve $____ billion in deficit reduction over a specified period of time (usually 10 years). The Budget Committees, when drafting the Budget Resolution, base the dollar amounts on specific mandatory spending and tax reforms, but

the Finance and Ways & Means Committees can decide to achieve their spending, revenue, or deficit targets through entirely different reforms – and in some cases, can substitute revenue changes for spending changes, or vice versa (called the "fungibility rule").

Adopting the Budget Resolution

When the House and Senate Budget Committees complete committee action on their respective Budget Resolutions, they report the resolutions to the full House and full Senate, respectively. Members of the House and Senate then have an opportunity to alter the work of their respective Budget Committees by offering amendments to the Budget Resolution during debate on the House and Senate Floors.

Senate debate often includes a long series of votes on *non-binding* policy statements – commonly called the "vote-a-rama." Unfortunately, the prevalence of non-binding "sense-of-the-Senate" statements in the vote-a-rama may obscure the importance of amendments that have serious policy impact – for example, changing the caps on total spending or allocations to committees, changing the revenue floor, or altering reconciliation instructions.

When the Senate and House have both passed their respective versions of the Budget Resolution, they appoint several of their Members to a House-Senate conference committee to resolve differences between the House- and Senate-passed resolutions. When differences have been resolved, each chamber must then vote on the compromise version of the Budget Resolution called a "Conference Report."

Budget Resolutions are not always completed. Congress failed to complete action on a Budget Resolution in 10 fiscal years since the Budget Act became law in 1974, including fiscal years 2011 through 2015, 2019, and 2020.

Discretionary Appropriations

Following adoption of a Budget Resolution Conference Report, the Budget Committees "allocate" total spending among the various committees of the House and Senate based on jurisdiction, with all discretionary spending allocated in one lump sum to the House and Senate Appropriations Committees, respectively. (The committee allocations are called "302(a) allocations," based on the applicable section of the Congressional Budget Act.)

Because the Budget Resolution determines the total amount of budget authority available to the Appropriations Committees, the Budget Act prohibits Congress from considering Appropriations Bills prior to adoption of the Budget Resolution. (However, recognizing that the House and Senate may not always come to agreement on a Budget Resolution, the House is permitted to begin consideration of appropriations bills on May 15th even if a Budget Resolution has not been adopted.)

When the House and Senate Appropriations Committees have received their total spending allocations, they subdivide their allocations among their 12 subcommittees, respectively. The allocations of discretionary spending (more than $1.4 trillion) among the 12 Appropriations subcommittees are called "**302(b) allocations**" and are a **key decision point** in the budget

process. The 302(b) allocations determine how much spending is allocated to defense vs. health research vs. food safety vs. Legislative Branch etc.

Following 302(b) allocations, the 12 appropriations subcommittees “mark-up” detailed appropriations bills for the upcoming fiscal year. The bills then go to the full Appropriations Committees for consideration. Following full committee action, appropriations bills are reported to the House and Senate Floors, respectively, for consideration by the full chamber, typically during the summer.

After Floor action, the appropriations bills then go to a House-Senate Conference Committee, generally comprised of senior members of the relevant appropriations subcommittees. The task of the conferees is to resolve all differences between the House and Senate versions of the bill, producing a conference report. The major constraints under which the conferees operate is to produce conference reports consistent with the 302(b) subcommittee allocations that can receive the support of a majority of House Members and at least 60 Senators (to avoid a filibuster). For additional information on appropriations, see Appropriations.com.

Budget Reconciliation: Floor Consideration and the Byrd Rule

If a Budget Resolution includes “reconciliation instructions” to change mandatory spending or revenue levels, the authorizing committees named in the instructions are required to develop reconciliation legislation at the same time the Appropriations Committees are assembling their appropriations bills.

Reconciliation mark-ups can be lengthy and challenging depending on the authorizing committees’ instructions; and because reconciliation bills are difficult to amend on the Floor (due to germaneness restrictions), the committee mark-ups are especially significant.

After the authorizing committees mark-up their respective reconciliation legislation, the various titles are reported to the Budget Committees where they are packaged into a single Reconciliation bill for House and Senate Floor consideration. Congress considers Budget Reconciliation bills under special procedural protections, particularly in the Senate.

To explain the significance of Budget Reconciliation procedures, it is first important to understand how the Senate typically operates. The Standing Rules of the Senate generally protect the right of all Senators to engage in (1) unlimited debate and (2) the unlimited right to offer amendments.

Votes do not occur in the Senate until all debate on a matter is completed and all amendments have been offered. Consequently, opponents of a particular measure can block it by engaging in extended debate or continuing to offer amendments. The “filibuster” is simply the continuation of debate and amendments to prevent a vote.

The only way to stop a filibuster in the Senate is by limiting debate and amendments with a procedure known as “cloture,” which requires 60 votes. In recent years, filibusters have been threatened more and more frequently, leading to the misconception that legislation requires the support of 60, not 51 Senators.

The Budget Reconciliation process effectively short-circuits Senate rules because the Budget Act protects Reconciliation bills with (1) a strict (20-hour) time limit on debate and (2) a germaneness restriction on amendments. The limit on debate means that Reconciliation bills cannot be filibustered. (These same significant protections apply to Congressional Budget Resolutions, which likewise cannot be filibustered.)

Consequently, no matter how controversial a Reconciliation bill may be, passage in the Senate requires 51 votes (or 50 when the Vice President votes to break a tie), rather than the 60 votes required to invoke cloture and end debate on a controversial measure.

The "germaneness" restriction on amendments to Reconciliation bills is equally significant (though often overlooked). "Germaneness" is much stricter than mere relevance. An amendment is "germane" only if it strikes a provision, changes a number, limits some new authority provided in the legislation, or expresses the "sense of the Senate." Effectively, this means that most substantive amendments offered to a Reconciliation bill on the Senate Floor are likely to be nongermane and can only be considered if the restriction is waived by a vote of 60 Senators. This elevates the importance of the committee-reported Reconciliation language.

Because Budget Reconciliation is a radical departure from the way the Senate normally does its business, Senator Robert C. Byrd (D-WV) created in 1985 what has become known as the "Byrd Rule," which limits what can be included in a Reconciliation bill. Under the Byrd Rule, all legislation reported in response to Reconciliation instructions must be *"budgetary"* in nature. Anything not budgetary in nature is considered *"extraneous"* and in violation of the Byrd Rule, and is *stricken from the bill if a point of order is raised.*

In addition, the Byrd Rule bars reconciliation provisions that would increase deficits beyond the 10-year "budget window." This is *particularly significant for tax cuts,* which violate the Byrd Rule unless they are fully paid for or expire at the end of 10 years. For a detailed explanation of the Byrd Rule, see: https://govbudget.com/reconciliation-germaneness-and-the-byrd-rule/.

The New Fiscal Year, Continuing Resolutions, and Shutdowns

Congress' annual objective is to complete action on all 12 appropriations bills, as well as Budget Reconciliation legislation by October 1, when the new fiscal year begins. However, due to escalating disagreements on fiscal policy, it is rare for Congress to complete action on all 12 bills by October 1. The last time was 1996.

Instead, Congress often passes stop-gap measures, called "continuing resolutions," to keep agencies operating at a particular level of funding (often the previous year's funding level with some adjustments, or the lower of House- or Senate-passed bills) while they endeavor to complete appropriations action.

Sometimes, multiple CRs are adopted before final agreement on appropriations is reached. And occasionally, political gridlock prevents adoption of a CR and the federal government shuts down. Lengthy government shutdowns occurred in 1995, 2013, and Dec. 2018 - Jan. 2019. For more information, see: appropriations.com/government-shutdown.

Unlike appropriations, failure to complete Budget Reconciliation by October 1, does not have any immediate consequence. A delay, due to continuing negotiations, means that reforms to taxes or mandatory spending have a later effective date, which does not typically interfere with government operations.

Budget Enforcement: Points of Order, PAYGO, and Sequestration

Senators and Representatives can raise parliamentary objections on the Senate or House Floors to block consideration of legislation that would cause a breach of total spending levels or the revenue floor, or a breach of the committee or subcommittee spending allocations established under that year's Budget Resolution. These parliamentary "points of order" are used most often to ensure that the 12 annual appropriations bills (containing the 30% of the budget that is "discretionary spending") remain within their subcommittee allocations.

(In years when the House and Senate have not reached agreement on a Budget Resolution, the House and Senate have sometimes adopted "deeming resolutions" to serve in place of an annual budget resolution for the purposes of establishing enforceable budget levels for the upcoming fiscal year.)

A different type of enforcement tool was established for mandatory spending legislation and tax legislation and is currently set forth in the Statutory Pay-As-You-Go Act of 2010 (usually known by the abbreviation "PAYGO"). The 2010 Act is the most recent incarnation of a PAYGO law, first adopted in 1990, aimed at enforcing a rule of *budget neutrality* for *new mandatory spending and revenue legislation.*

The objective of PAYGO is to prevent *new* mandatory spending and revenue legislation from increasing deficits. This is accomplished by effectively requiring that new legislation contain budgetary offsets to "pay for" new tax cuts or new mandatory spending increases. Budgetary offsets can be provisions that increase revenues or cut mandatory spending, or a combination of the two.

Under PAYGO, the budgetary effects of newly enacted revenue and mandatory spending provisions are recorded by the Office of Management and Budget (OMB) on two PAYGO scorecards covering five-year and 10-year periods (in each new session, the periods covered by the scorecards roll forward one fiscal year). OMB displays on the scorecards the *average* budgetary effects of PAYGO legislation in each year over the 5-year and 10-year periods beginning with the budget year.

Shortly after a congressional session ends, OMB finalizes the two PAYGO scorecards and determines whether a violation of the PAYGO requirement has occurred (i.e., if a *net deficit has been recorded for the budget year* on either the 5-year or 10-year scorecard). If so, the President issues a sequestration order that implements largely across-the-board cuts in (nonexempt) mandatory spending programs sufficient to eliminate the violation. Many mandatory spending programs and activities are exempt from PAYGO sequestration.

Note that even if a deficit increase is caused by tax cuts, the remedy is automatic mandatory spending cuts; there are no automatic tax increases. For an example of how a sequestration order operates, see OMB: The Statutory Pay-As-You-Go Act of 2010 – A Description.

There are *exceptions* to the PAYGO statute. First, legislation designated as *emergencies* are always exempt from PAYGO; they are not placed on either scorecard and cannot trigger a sequester**.**

Second, Congress can exempt any bill from PAYGO by simply including a provision stating that "the budgetary effects of this section (or bill) shall not be entered on the PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010."

Finally, the automatic sequestration mechanism, itself, has exemptions. When an "across-the-board" sequester of mandatory spending programs is required, it is not really "across-the-board." Automatic cuts in the *Medicare program are limited to 4%* and many other mandatory spending programs are entirely *exempted from sequestration* including: Social Security, federal retirement, interest payments, most unemployment benefits, veterans' programs, and low-income programs including Medicaid, food stamps (now called SNAP), children's health insurance (CHIP), refundable income tax credits, Temporary Assistance for Needy Families (TANF), and Supplemental Security Income (SSI).

In addition to the statutory PAYGO mechanism, the House and Senate have their own PAYGO rules which allow parliamentary objections to block consideration of bills or amendments that would cause deficit increases. Waiver of the Senate's PAYGO rule requires 60 votes.

BCA of 2011, Spending Caps, and the Bipartisan Budget Acts of 2013, 2015, 2018, and 2019

The Budget Control Act of 2011 (BCA; August 2, 2011, P.L. 112-25)—negotiated during a lengthy political impasse over raising the debt ceiling—added a new layer of measures in the budget process aimed at reducing projected deficits. Tight statutory spending caps were imposed on total defense and non-defense discretionary spending for each year through FY 2021 to reduce deficits by more than $900 billion over 10 years (including interest reductions). The caps are enforced by automatic across-the-board budget cuts ("sequestration") in appropriations bills if the caps are breached in any year.

The BCA also established a Joint Select Committee on Deficit Reduction (Joint Committee) to negotiate another $1.5 trillion in budget savings through FY2021. As a fallback, the BCA provided that *automatic spending reductions* would be triggered if Congress did not enact at least $1.2 trillion in Joint Committee budget savings by January 15, 2012.

The January 15, 2012 deadline was not met and $1.2 trillion in "Joint Committee automatic reductions" were triggered, beginning with an $85 billion sequester (across-the-board cuts) in FY2013. This was to be followed by automatic reductions of $109.3 billion to be implemented in each fiscal year through FY2021.

The BCA automatic reduction formula, if followed without amendment, would have applied more than 80% of the automatic annual budget reductions savings to discretionary spending through reductions in the discretionary caps. The remainder of the savings were to be applied to mandatory spending through annual sequestration (across-the-board cuts).

Subsequent legislation—the Bipartisan Budget Acts of 2013, 2015, 2018, and 2019—have partially or fully rolled back the automatic *discretionary cap reductions* that were to take effect in each year

through FY2021. However, the annual sequester of *mandatory* spending (called the "Joint Committee Sequester") have been implemented each year—and extended another nine years through FY2030 (most recently by the CARES Act, P.L. 116-136).

The Joint Committee Sequester automatically reduces more than 200 mandatory spending accounts. The reductions impact a broad array of mandatory programs, including Affordable Care Act cost-sharing reduction subsidies and risk adjustment, farm price and income supports, compensation and services for crime victims, citizenship and immigration services, agricultural marketing services and conservation programs, promoting safe and stable families, and animal and plant health inspection.

The sequester also includes Federal Deposit Insurance Corporation orderly liquidation operations, vocational rehabilitation services, mineral leasing payments, Centers for Medicare and Medicaid Services program management, social services block grants, Departments of Justice and Treasury law enforcement activities, and student loan origination fees. Also included are highway performance; school construction bonds; spectrum relocation activities; Trade Adjustment Assistance; Consumer Financial Protection Bureau; Drug Enforcement Administration operations; Tennessee Valley Authority; fish and wildlife restoration and conservation; affordable housing; the maternal, infant, and early childhood home visiting program; and Gulf Coast restoration.

Statutory Limits on Discretionary Spending: FY2012 – FY2021 ($ in billions)

("**Defense**" is a shorthand for "security revised" and "**Nondefense**" is a shorthand for "nonsecurity revised")

Laws	Fiscal Year:	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
BCA 2011	Security	684	686	1,066	1,086	1,107	1,131	1,156	1,182	1,208	1,234
	Nonsecurity	359	361								
Automatic Reductions Jan. 2012	Defense		641	498	512	523	536	549	562	576	589
	Nondefense		333	469	483	493	504	516	530	543	558
BBA-13 Dec 2013	Defense			520	521						
	Nondefense			492	492						
BBA-15 Nov 2015	Defense					548	551				
	Nondefense					518	518				
BBA-18 Feb 2018	Defense							629	647		
	Nondefense							579	597		
BBA-19 July 2019	Defense									666.5	671.5
	Nondefense									621.5	626.5

Budget Enforcement after Expiration of the BCA

The statutory limits on discretionary spending—as enacted by the BCA and modified by the Bipartisan Budget Acts—expire at the end of FY2021. This section summarizes budget controls that remain in place after FY2021.

Controls on Discretionary Spending

Although the BCA statutory spending caps, as amended by the Bipartisan Budget Acts, will expire after FY2021, the following discretionary spending controls will continue to be in effect:

- Appropriations Committee Allocations**:** The conference report on the annual Concurrent Resolution on the Budget (budget resolution) includes "302(a) allocations" of discretionary spending (budget authority and outlays) to the House and Senate Appropriations Committees. The respective committees then subdivide those amounts as "302(b) allocations" to the 12 appropriations subcommittees. In both the House and Senate, there is a point of order against any appropriations bill, amendment, or conference report that would violate the 302(b) subcommittee allocations; and in the House there is also a point of order against violations of the 302(a) allocation to the full committee.

- Total Spending**:** A budget resolution includes levels for aggregate (total) budget authority and outlays for the budget year. In the House and Senate there is a point of order against legislation that would cause the budget resolution totals for new budget authority or outlays in the budget year to be exceeded (60-vote waiver in the Senate).

Controls on Mandatory Spending

The following mandatory spending control measures will continue to be in effect after FY2021:

- Total Spending: In the House and Senate there is a point of order against legislation that would cause the budget resolution aggregate levels for new budget authority or outlays in the budget year to be exceeded (60-vote waiver in the Senate).

- Authorizing Committee Allocations**:** The conference report on the annual budget resolution includes "302(a) allocations" of budget authority and outlays to the authorizing committees covering the mandatory spending programs under their respective jurisdictions. The allocations may be set at baseline levels if no legislative changes are contemplated by the budget resolution, or the allocations can make room for changes. In both the House and Senate, there is a point of order against any legislation that would violate the 302(a) allocation to the committee of jurisdiction. A waiver in the Senate requires 60 votes.

- Budget Reconciliation**:** A budget resolution enables Congress to fast-track legislation from multiple committees making changes in mandatory spending programs. In the Senate, reconciliation legislation cannot be filibustered (due to limits on debate); floor amendments must be germane; and all provisions must be budgetary in nature.

- Statutory Pay-As-You-Go (PAYGO) Requirement**:** OMB maintains 5-year and 10-year "scorecards" of the *average* annual budgetary effects from all new mandatory spending and tax legislation enacted by Congress. At the end of a session of Congress, new mandatory spending or tax cut legislation that results in a net deficit increase for the *first year* of either scorecard would trigger a PAYGO sequester (across-the-board cuts in all nonexempt mandatory spending) to eliminate the deficit increase. However, there have been no PAYGO

sequesters due to provisions excluding the budgetary effects of legislation from the scorecards, or separate provisions that "zero out" the scorecards.

- House and Senate PAYGO Rules**:** Unlike Statutory PAYGO which looks at the net deficit effect—averaged over 5 years and 10 years—of all mandatory spending and revenue legislation enacted during a session of Congress, the House and Senate PAYGO rules allow a parliamentary point of order to be raised against individual bills, amendments, or conference reports projected to increase mandatory spending or reduce revenues unless the legislation includes offsets that prevent a deficit increase. Both rules prohibit deficit increases over a 6-year or 11-year period, beginning with the current fiscal year; and the Senate rule also prohibits deficit increases in the current year or the budget year, individually. A waiver of the PAYGO rule in the Senate requires a 60-vote supermajority. In the House, the point of order may be waived by a simple majority.

- Point of order against "backdoor spending"**:** Section 401(a) of the Budget Act provides a point of order against legislation creating new contract authority, borrowing authority or credit authority, unless it is subject to appropriations.

- Point of order against new entitlement authority effective in the current year**:** Section 401(b) provides a point of order against legislation creating new entitlement authority that would become effective during the current fiscal year.

- Annual Mandatory Sequester extended through FY2030**:** The annual Joint Committee mandatory sequester—triggered on January 15, 2012 by the BCA—will continue to be implemented on October 1st of each fiscal year through FY2030. The budgetary savings from the mandatory sequester is less than one percent of total mandatory spending.

Controls on Revenues

The following revenue control measures will continue to be in effect after FY2021:

- Budget Resolution Floor for Total Revenues**:** In the House and Senate there is a point of order against legislation that would cause revenues to fall below the budget resolution revenue floor for the budget year or the total of all years covered by the resolution (60-vote waiver in the Senate).

- Budget Reconciliation**:** A budget resolution enables Congress to fast-track legislation from multiple committees making changes in revenue (tax) laws. In the Senate, reconciliation legislation cannot be filibustered (due to limits on debate); floor amendments must be germane; and all provisions must be budgetary in nature.

- Statutory Pay-As-You-Go (PAYGO) Requirement**:** Statutory PAYGO: OMB maintains 5-year and 10-year "scorecards" of the *average* annual budgetary effects from all new mandatory spending and tax legislation enacted by Congress. At the end of a session of Congress, new mandatory spending or tax cut legislation that results in a net deficit increase for the *first year* of either scorecard would trigger a PAYGO sequester (across-the-board cuts in all nonexempt

mandatory spending) to eliminate the deficit increase. However, there have been no PAYGO sequesters due to provisions excluding the budgetary effects of legislation from the scorecards, or separate provisions that "zero out" the scorecards.

- House and Senate PAYGO Rules: Unlike Statutory PAYGO which looks at the net deficit effect—averaged over 5 years and 10 years—of all mandatory spending and revenue legislation enacted during a session of Congress, the House and Senate PAYGO rules allow a parliamentary point of order to be raised against individual bills, amendments, or conference reports projected to increase mandatory spending or reduce revenues unless the legislation includes offsets that prevent a deficit increase. Both rules prohibit deficit increases over a 6-year or 11-year period, beginning with the current fiscal year; and the Senate rule also prohibits deficit increases in the current year or the budget year, individually. A waiver of the PAYGO rule in the Senate requires a 60-vote supermajority. In the House, the point of order may be waived by a simple majority.

Controls on Deficits and Debt

- Budget Reconciliation: The annual budget resolution may include optional "reconciliation instructions" requiring authorizing committees to report legislation making changes in mandatory spending programs or tax laws. When committees report reconciliation legislation in response to budget resolution instructions, the legislation is packaged into an omnibus reconciliation bill by the Budget Committees, and then considered under expedited procedures. In the Senate, reconciliation bills are filibuster-proof and all amendments must be strictly germane. From FY1980 through FY1997, the first 13 budget reconciliation acts were utilized to reduce budget deficits, including deficit reduction packages in 1990, 1993, and 1997 that were followed by four years of federal budget surpluses.

- Byrd Rule Point of Order against Outyear Deficits in a Reconciliation Bill: The Byrd Rule places boundaries on the types of legislation eligible to be considered under the filibuster-proof reconciliation procedures, including a prohibition on provisions that would increase outyear deficits (i.e. deficits in years beyond the budget resolution window). For example, in instances when reconciliation procedures have been used to expedite tax cuts, the Byrd Rule has required the tax cuts to expire after 10 years so as not to cause deficits beyond the 10-year budget resolution window.

- Long-Term Deficit Points of Order: In the Senate, a rule adopted in the FY2016 budget resolution—and still in effect—prohibits the consideration of legislation that would cause a net increase in deficits of more than $5 billion in any of the four consecutive 10-year periods beginning after the upcoming 10 years. Waiver of the rule requires 60 votes.

- Statutory Pay-As-You-Go (PAYGO) Requirement: Statutory PAYGO: OMB maintains 5-year and 10-year "scorecards" of the *average* annual budgetary effects from all new mandatory spending and tax legislation enacted by Congress. At the end of a session of Congress, new mandatory spending or tax cut legislation that results in a net deficit increase for the *first year* of either scorecard would trigger a PAYGO sequester (across-the-board cuts in all nonexempt

mandatory spending) to eliminate the deficit increase. However, there have been no PAYGO sequesters due to provisions excluding the budgetary effects of legislation from the scorecards, or separate provisions that "zero out" the scorecards.

- House and Senate PAYGO Rules: Unlike Statutory PAYGO which looks at the net deficit effect—averaged over 5 years and 10 years—of all mandatory spending and revenue legislation enacted during a session of Congress, the House and Senate PAYGO rules allow a parliamentary point of order to be raised against individual bills, amendments, or conference reports projected to increase mandatory spending or reduce revenues unless the legislation includes offsets that prevent a deficit increase. Both rules prohibit deficit increases over a 6-year or 11-year period, beginning with the current fiscal year; and the Senate rule also prohibits deficit increases in the current year or the budget year, individually. A waiver of the PAYGO rule in the Senate requires a 60-vote supermajority. In the House, the point of order may be waived by a simple majority.

Deficits, Public Debt, and the Debt Ceiling

The nation's public debt – which is the *accumulated* debt of the nation – increases when Congress enacts total spending for a fiscal year that exceeds total revenues; in other words, when the nation runs an *annual deficit*. When Congress passes spending and tax laws that result in an annual deficit, the U.S. Treasury must borrow sufficient funds to cover the deficit, and the accumulated public debt increases.

Total public debt also increases when the Social Security Trust Funds, and other government trust funds, invest cash surpluses in Treasury securities for safekeeping, as required by law.

The *statutory limit on the public debt*, often called the "debt ceiling," is an artificial legal limit on the Treasury's ability to borrow the funds necessary to finance already incurred obligations of the United States. If Congress passes spending measures that exceed incoming revenues, but prevents the Treasury from borrowing funds to cover the deficit, the nation would default on its legal obligations to lenders, Social Security beneficiaries, veterans, Medicare providers and any others to whom payments are legally owed. See: https://govbudget.com/debt-ceiling/.

A U.S. default has never occurred and would have catastrophic effects on: (1) the ability of the U.S. Treasury to issue bonds in the future; as well as (2) the stability of global financial markets.

The debt ceiling roughly approximates *total public debt* – which includes:

- Debt Held by the Public (money borrowed by selling Treasury securities to various buyers including foreign investors, mutual funds, state and local governments, commercial banks, insurance companies and individuals); *plus*

- Debt Held by Federal Government Accounts, such as the Social Security Trust Funds and various federal retirement trust funds.

While a lot of political attention is paid to the debt ceiling due to its symbolism, most experts view Debt Held by the Public as more significant than Total Public Debt, because Debt Held by the Public

reflects the total amount the Federal Government is borrowing from private credit markets – with the implications that has for available credit. As of June 2020, debt held by the public was $20.24 trillion, while total public debt was $26.14 trillion. See https://govbudget.com/economy-real-time-numbers/ for up-to-the-minute data on federal debt, foreign holders of U.S. debt, and other real-time economic data.

Controls on Presidential Impoundment

One impetus for development of the congressional budget process was an executive-legislative power struggle that erupted during the Nixon Administration over presidential authority to *impound* funds appropriated by Congress. In response to President Nixon's attempt to withhold congressionally appropriated funds, Title X of the Congressional Budget and Impoundment Control Act of 1974 as amended established legal procedures to prevent a recurrence of this dispute and is separately referred to as the **Impoundment Control Act** (ICA).

Under the procedures put in place by the Impoundment Control Act, the President may (1) "defer" (delay) using an amount of appropriated budget authority until later in a fiscal year or (2) propose to "rescind" (cancel) an amount of budget authority.

The authority of the President to defer budget authority and propose rescissions of budget authority does not apply to the more than two-thirds of the budget that consists of mandatory spending and interest payments. The portion of the budget that is susceptible to rescissions or deferrals is the nearly one-third portion of the budget that is "discretionary" and subject to annual funding decisions.

Deferrals**.** The purpose of the deferral mechanism is to permit the Executive Branch to set money aside until later in the year to provide for a contingency, or to save money due to changes in operations. The President may not propose a deferral simply because he disagrees with Congress' appropriations decision. A further restriction is that funds may not be deferred for a period that is too long to allow the agency to obligate the funds prudently by the end of the fiscal year. A deferral proposed by the President takes effect unless Congress passes, and the President signs, a law disapproving the deferral in which case the funds must be released.

Rescissions**.** Conversely, a rescission (cancellation) of appropriations, proposed by the President, does not occur *unless* Congress affirmatively passes a law approving the cancellation within 45 days (of continuous session). Consequently, if either the House or Senate fails to enact the President's proposed rescission of budget authority in a timely manner, the President has no choice but to release the budget authority to the agency after expiration of the 45-day period. Rescission legislation in the Senate is subject to statutory debate limitations and therefore *cannot be filibustered*, requiring only a simple majority (51) for passage. (Congress has unfettered authority to initiate its own rescission legislation to revise earlier appropriations decisions.)

In drafting the 1974 Impoundment Control Act, Congress put teeth in its limitations on presidential impoundment by empowering the Comptroller General (who heads the Congress' investigative arm, the GAO) to file suit in Federal Court to require the release of appropriated funds that have been illegally deferred or rescinded. See https://govbudget.com/rescissions/.