Research

The Budget Control Act and the Outlook for Defense Spending

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On December 26, 2013 the president signed into law the Bipartisan Budget Act (BBA), which established discretionary spending levels and enforcement provisions, for FY2014 and FY2015. This was designed to add certainty to the appropriations process and avoid government shutdowns. The Act set overall discretionary spending by a combined $63 billion above the lowered caps for FY2014 ($45 billion) and FY2015 ($18 billion). The BBA set defense caps for FY2014 and FY2015 at $520.5 billion and $521.3 billion, respectively, with allowances for adjustments to accommodate additional funding for overseas contingency operations (OCO) and emergencies. For both FY2014, and FY2015, appropriations have hewed to the caps established under the BBA (Table 1).

This modest relief from cuts to defense spending acknowledges that the “post-sequestration” defense caps do not reflect a defense policy or national strategy, but rather the political failure of Congress to find deficit savings. Indeed, the downwardly revised defense caps follow $487 billion in existing reductions to future defense spending. Accordingly, the current defense spending path represents an inadequate resourcing of national security needs, a challenge reflected in testimony from senior military leaders, the president’s budget, and congressional action.

Table 1: Status of Defense Spending Limits and Appropriations[1]

Billions ($)	FY2014	FY2015
Defense Cap	$520.5	$521.3
OCO	$85.4	$64.5
Emergency	$0.225	$0.112
Adjusted Caps	$606.3	$585.8
Appropriations	$606.3	$585.8

The Outlook for Defense Spending for FY2016 and Beyond

The relief provided by the BBA from the downwardly revised defense caps ends for FY2016 and thereafter. For FY2016, the original Budget Control Act (BCA) cap was set at $577 billion. This was revised down to an estimated $523 billion – essentially representing a flat-lining of base defense spending for 4 consecutive years. The spending caps grow, albeit modestly through 2021 (Table 2).

Table 2: Estimated Original and Revised Defense Discretionary Funding Caps[2]

Billions ($)	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021
BCA Cap	577	590	603	616	630	644
Spending Reductions	-54	-54	-54	-54	-54	-54
Revised Caps	523	536	549	562	576	590

Compared to the original BCA caps, the downward revision on the defense discretionary spending caps owing to the failure of the "Super Committee" amounts to $324 billion over the next 6 fiscal years. The president's FY2015 budget has proposed to partially relieve this reduction and has proposed an "Opportunity, Growth, and Security Initiative" that would increase the cap by $157 billion through FY2021 (Table 3).

Table 3: Revised Discretionary Caps vs. the President's Budget[3]

Billions ($)	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021
Revised Caps	523	536	549	562	576	590
Opportunity, Growth, and Security Initiative	38	33	29	24	19	14
President's Request	561	569	578	586	595	604

Possible Policy Approaches to Defense Spending

Under current law, defense funding, excluding OCO, will be $523 billion. Absent a change to the BCA caps, even if Congress appropriates more funding, OMB would have to cancel any budget authority appropriated above the cap. As a result, any potential for relief from the revised caps must involve a change to the BCA itself, as was required with the Bipartisan Budget Act. Accordingly, relief from the cap would require several steps.

The first opportunity to provide funding above the cap would be during the formulation and deliberation on the budget resolution. In formulating a budget resolution, Congress agrees to discretionary spending levels, which are then enforceable through points of order, which can be waived with super-majorities.[4] Should Congress seek to provide funding for defense above the revised caps, it could include that level in the budget resolution. The advantage of this approach would be to cement *bicameral* agreement, to the extent there is, to the higher defense funding well in advance of debate on the defense appropriations measure. Moreover, if a budget resolution assumed defense funding at levels consistent with the cap, a subsequent defense appropriations bill that violated the level in the budget resolution could be subject to a point of order, which would require 60 votes to waive. There are drawbacks to this approach. First, a budget resolution is often a partisan document, and rarely receives the support of the minority. Accordingly, it is not a meaningful vehicle for developing *bipartisan* agreement. Also, the president does not sign a budget resolution, so it is not an appropriate vehicle for engaging with the executive branch. Lastly, to ultimately fund national defense above the discretionary spending caps will require the passage of two changes in law – a funding bill and a change to the BCA. Both will face 60-vote thresholds during deliberation in the Senate. Accordingly, shielding a defense appropriations bill from a budget point of order is less meaningful.

A key element of many budget resolutions is the inclusion of reconciliation instructions. Reconciliation is an optional legislative process that allows for the filibuster-proof consideration of legislation that achieves budget outcomes specified by the budget resolution. Special rules, however, limit the type of legislation that may be passed through reconciliation. Key among these limitations is the "Byrd Rule," which among other restrictions, precludes inclusion in reconciliation bills of any provision that does not change spending or revenues. Changes to the spending caps *would not* change spending or revenues, and this could not be altered through reconciliation. The spending caps themselves have no effect on spending levels. Rather, the appropriations acts that adhere to them do. Accordingly, the cuts to defense currently embedded in the spending limits *cannot* be altered through reconciliation. However, to the extent that any increase in the defense spending cap would have to be offset – the offsets could be achieved through the reconciliation process.[5]

The second key step in providing for relief under the current spending caps would be in the passage of the appropriations bill itself. This measure would have to reflect bicameral and bipartisan agreement in Congress, and be signed by the president. Accordingly, *how* the caps are adjusted matters a great deal. Any increase in the caps and the associated increase in defense spending would likely have to be offset through mandatory spending. This reflects several important dynamics. First, the Republican Congress has no appetite for tax increases, and any such measures would be unlikely to receive any support. Second, non-defense discretionary spending has been deeply cut along with defense spending, and Congress, and Democrats in particular, would be unwilling to assent to finance higher defense spending in exchange for reductions in non-defense spending. Indeed, if the Bipartisan Budget Act is any indication, any increase in the caps on defense spending would likely be paired with an increase in the non-defense cap. As such, that dynamic only leaves mandatory spending as the available source of potential offsets.

The president has proposed a $38 billion increase in defense funding relative to the current cap. He has proposed an equal increase in non-defense spending, for a combined increase of $76 billion in discretionary spending for FY2016. If Congress must offset this increase, it would have to find an equal amount of mandatory savings that Democrats and the president would be willing to endorse. One initial possibility is an extension of the automatic spending reductions affecting mandatory spending for an additional 2 years. The Bipartisan Budget Act extended these reductions for 2 years until 2023 and raised $28 billion. Congress could consider extending these reductions an additional 2 years, raising about $30 billion or more. Additional savings can and should be found within the defense-space, particularly related to health, retirement, and compensation as well as essential reforms to how the federal government procures major weapon systems and technologies. The most recent Future Years Defense Program, for example, called for redirecting $31 billion in personnel savings and devoting them to other priorities. This could include the areas of readiness harmed by the discretionary cuts. The president's budget, while replete proposals anathema to Republicans does include some savings that could be redirected to offset an increase in discretionary spending for FY2016. Indeed, the president proposed $27.7 billion in non-tax offsets for the Opportunity, Growth, and Security Initiative.[6] Combined with other reforms, these could more than offset a paired increase in the discretionary caps for FY2016. These savings could be enacted through a reconciliation bill.

Having agreed on the right funding level and the appropriate offsets, the last step to relieving the defense cap for FY2016 would be amend the BCA to accommodate the higher level of spending. This would require a change in law that would again have to gain approval in the House, Senate, and the White House. Accordingly, this would likely be included in the funding measure itself, as was the case with the Bipartisan Budget Act.

Appendix: Recent Defense Funding History and The Evolution of the Budget Control Act, American Taxpayer Relief Act, and Sequestration

On August 2, 2011 the president signed the Budget Control Act of 2011 (BCA, P.L. 112-25). The BCA re-imposed a regime of discretionary spending caps that had previously been in place through the 1990's and lapsed in 2002. The BCA provided a mechanism, an across the board rescission of budget authority, a sequester, in the event that those caps were breached.

The Budget Control Act also imposed an additional mechanism, variously referred to as the "Joint Committee Reductions," "Automatic Spending Reductions," or more colloquially just as the "sequester," which was designed to reduce the deficit by $1.2 trillion (including interest costs) over and above the reductions imposed by the BCA discretionary caps. This mechanism was designed to come into force if the Joint Select Committee on Deficit Reduction, also referred to as the Super Committee, failed to produce a plan that reduced the deficit by equal measures. The Committee failed to do so, thus triggering the automatic enforcement provisions of the BCA through FY2021. The Act required OMB to issue a sequestration order on January 2, 2013 cancelling $109 billion in budget authority, split evenly between defense and non-defense categories, already enacted for FY2013 – a true sequester of budget authority already in place.[7] For FY2014-2021, discretionary savings result from spending caps lowered about $90 billion per year below the original BCA discretionary caps. Remaining savings would come from cancelation of mandatory budget authority through an annual sequestration order.[8]

On January 2 2013 (effective for January 1), the president signed the American Taxpayer Relief Act (ATRA) of 2012, which addressed a number major expiring provisions contributing to what was referred to as a "fiscal cliff." Among these provisions was the sequestration set to take place on January 2. The Act delayed these cuts by two months – pushing the order to March 1, 2013. It also reduced the amount to be sequestered to $85 billion, again split evenly between defense and non-defense funding.[9]

OMB issued a sequester order pursuant to ATRA on March 1, 2013, and cancelled $85 billion in enacted budgetary resources for the balance of the fiscal year. The order reduced defense funding by $42.6 billion, non-defense discretionary funding by $25.8 billion, and non-defense mandatory spending by $16.9 billion.[10]

Federal funding faced a troubled road in the remainder of 2013, including a partial government shutdown beginning October 1, 2013 owing to a failure between the House and Senate to agree to discretionary spending levels and other policy matters. On October 16 Congress passed a continuing resolution through January 15, 2014 that provided $986 billion in overall discretionary budget authority on an annualized basis for FY2014, and essentially extended FY2013 post-sequester Defense spending at $518 billion on annualized basis. However, at this funding level and in the absence of a change to the BCA, defense spending would face a $20 billion sequester in January. This is because for FY2014, the lowered spending cap for defense was $498.1 billion.[11] The enactment of the Bipartisan Budget Act set forth defense spending limits in place for FY2014 and FY2015.

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[1] https://www.cbo.gov/sites/default/files/cbofiles/attachments/49889-sequestration.pdf, https://www.cbo.gov/sites/default/files/45630-Sequestration.pdf

[2] https://www.cbo.gov/sites/default/files/cbofiles/attachments/49889-sequestration.pdf

[3] http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/tables.pdf

[4] http://americanactionforum.org/research/the-congressional-budget-process-what-a-budget-resolution-is-and-what-it-is

[5]For more on reconciliation, see: http://americanactionforum.org/research/budget-reconciliation-in-a-divided-government

[6] http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/15msr.pdf

[7] http://www.cbo.gov/sites/default/files/09-12-BudgetControlAct_0.pdf

[8] ibid

[9] https://www.cbo.gov/sites/default/files/American%20Taxpayer%20Relief%20Act.pdf

[10] http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf

[11] http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/sequestration_update_august2013.pdf

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Gordon joins the Forum after serving in a series of congressional and campaign positions.

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