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Discretionary Spending Limits

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Discretionary spending limits are statutory caps on the level of budget authority and outlays determined through the annual appropriations process. They were initially established by the Budget Enforcement Act (BEA) of 1990 (Title XIII of P.L. 101-508) as part of an agreement between Congress and President George Bush to reduce the deficit. Twice since, they were extended to enforce agreements between Congress and President Bill Clinton, most recently to achieve a surplus.

Initially, the 1990 BEA created limits for FY1991-FY1993 in three separate discretionary spending categories: defense, domestic, and international. Also, limits were established for total discretionary spending for FY1994-FY1995. In 1993, Congress and the President extended the total discretionary spending limits through FY1998. A separate limit was created subsequently for violent crime reduction spending through FY2000 by the 1994 Violent Crime Control and Law Enforcement Act (P.L. 103-322).

The 1997 Budget Enforcement Act (title X of P.L. 105-33) extended and modified the discretionary spending limits by establishing separate limits for defense and nondefense spending (FY1998-1999), violent crime reduction spending (FY1998-FY2000), and other discretionary spending (FY2000-2002). The 1998 Transportation Equity Act for the 21st Century (P.L. 105-178) created two additional spending limits on outlays for highway and mass transit spending (FY1999-2002). More recently, the Interior Appropriations Act, FY2001 (P.L. 106-291) established limits for conservation spending, including six different subcategories (FY2002-2006). Table 1 presents the current discretionary spending limits.

Table 1. Discretionary Spending Limits, FY2001-FY2006

(in millions of dollars)

Category	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Highway	O 26,920	O 27,925	)	)	)	)
Mass Transit	O 4,639	O 5,419	)	)	)	)
Conservation	)	BA 1,760 O 1,232	BA 1,920 O 1,872	BA 2,080 O 2,032	BA 2,240 O 2,192	BA 2,400 O 2,352
Other Discretionary	BA 640,803 O 613,247	BA 550,333 O 539,513	)	)	)	)

Sources: OMB Final Sequestration Report, pp. 6-7, and Sec. 801(a) of Title VIII, Interior Appropriations Act for FY2001 (P.L. 106-291; 114 *Stat.* 922).
Note: BA=Budget Authority; O=Outlays.

The joint explanatory statement in the conference report to the Balanced Budget Act of 1997 (H.Rept. 105-217, pp. 1014-1053) identifies the spending accounts covered under the "other discretionary" category. Section 8101(c) of the 1998 Transportation Equity Act lists the spending accounts covered under the "highway" and "mass transit" categories. Lastly, section 801(c) of the Interior Appropriations Act, FY2001, specifies the spending accounts covered under the "conservation" category and each subcategory.

Adjustments to the Discretionary Spending Limits

The 1990 BEA required the President to make specific adjustments to the statutory discretionary spending limits. As modified by the 1997 BEA, adjustments must be made to reflect: (1) changes in concepts and definitions; (2) discretionary spending designated by the President as emergency requirements and that Congress so designates in statute; (3) special outlay allowances (to accommodate estimating differences between the Office of Management and Budget and the Congressional Budget Office); (4) appropriations for continuing disability reviews; (5) allowance for International Monetary Fund contributions; (6) allowance for international arrearages; and (7) appropriations for an earned income tax credit compliance initiative. The sequestration reports issued by the Office of Management and Budget (OMB) must reflect these adjustments cumulatively for the applicable fiscal year and each succeeding year through FY2002.

Enforcing the Discretionary Spending Limits

The discretionary spending limits primarily are enforced by sequestration. Sequestration is the across-the-board cancellation of budgetary resources in nonexempt programs. If the applicable spending cap is exceeded through the enactment of legislation, sequestration is triggered automatically. Generally, the final sequestration Report issued by OMB 15 days after the end of a session is the only report triggering a sequester. If the OMB director determines a spending cap has been breached, the President is required to issue a sequestration order canceling budgetary resources in nonexempt programs only in the category in which the breach occurs.

Along with the end-of-the-session sequestration, a within-session sequestration may occur when an appropriation, such as a supplemental appropriation, causes a spending cap to be breached during a fiscal year. In this case, a sequestration would occur seven days after the enactment of the appropriation. If a violation of the discretionary spending limits occurs in the last quarter of the fiscal year (*i.e.*, July 1 through September 30), the spending limit for the applicable category must be reduced by the amount of the violation in the following fiscal year.

Although the discretionary spending limits are enforced primarily by the sequestration process, they also may be enforced procedurally in Congress. The levels set forth in the annual budget resolution are meant to be consistent with the discretionary spending limits. Thus, the spending limits may be enforced indirectly through points of order related to the enforcement of a budget resolution. In the Senate only, the statutory spending caps are enforceable directly. Section 312(b) of the Congressional Budget Act, as amended, provides a point of order against the consideration of any measure or amendment that would exceed these limits.