The Budget Process

Section 3, chapter 2 of 5

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U.S. HOUSE OF
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The Budget Process

Section 3 chapter 2 of 5

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The Timetable of the Budget Process

Title III of the Congressional Budget Act establishes a specific timetable for the congressional budget process:

On or Before	Action to be Completed
First Monday in February	President submits his budget.
February 15	Congressional Budget Office reports to the Budget Committees
Not later than 6 weeks after the President submits the budget	Committees submit views and estimates on the President's Budget to the Budget Committees. (Frequently, the House Budget Committee Sets its own date based on the Legislative Calendar)
April 1	Senate Budget Committee reports concurrent resolution on the budget
April 15	Congress completes action on the concurrent resolution on the budget. (This is not signed by the President)
May 15	Annual appropriations bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriations bill.
June 15	Congress completes action on reconciliation legislation. (If required by the budget resolution)
June 30	House completes action on annual appropriations bills.
October 1	Fiscal Year begins.

These deadlines are designed to be flexible to accommodate the legislative scheduling priorities of the House and Senate Majority Leadership. For further information on the congressional budget process see the Rules Committee web site at www.rules.house.gov or contact the Rules Committee at 225-9091 or the Budget Committee at 226-7200.

Mandatory vs. Discretionary Spending

Excerpt from S. Rept. 105-67[1]
December 1998

"The Congressional Budget Process: An Explanation" (pages 5-6)
Senate Budget Committee

Mandatory Spending, Direct Spending and Entitlement Spending

Mandatory spending generally includes all spending that is made pursuant to laws other than appropriations laws. The fundamental characteristic of mandatory spending is the lack of annual discretion to establish spending levels. Instead, mandatory spending usually involves a binding legal obligation by the Federal Government to provide funding for an individual, program, or activity. Another way of defining mandatory spending is that it is all spending that is not discretionary.

Mandatory spending is frequently referred to as entitlement spending. Entitlement spending is a subset of mandatory spending and represents the largest component of mandatory spending. Most entitlement spending is pursuant to laws that provide all eligible individuals (or an entity or unit of government) with financial assistance or other benefits, such as SSI and unemployment. An entitlement represents a binding obligation on the part of the Federal Government; eligible recipients have legal recourse to compel payment from the government if the obligation is not fulfilled.

Usually, the laws providing for an entitlement contain formulas or criteria that specify who is eligible for Federal assistance. Unless the underlying law establishing the entitlement is modified, these individuals retain a legal right to benefits, regardless of the budget situation. For example, the Social Security law sets formulas under which retired workers receive benefits based on the length of time they have worked and their earnings. The cost of Social Security for a given fiscal year is thus determined by the number of qualifying retirees rather than by the amount of money in the Treasury or an annual appropriation.

Some appropriations bills include funding for entitlement programs. Even though this funding is included in an appropriations bill, it is still considered mandatory spending rather than discretionary spending. For example, the Congress provides annual funding for the Medicaid program through an appropriations bill. However, the actual funding level for Medicaid is determined by criteria in Title XIX of the Social Security Act. This law provides an entitlement to low-income individuals to pay for a portion of their health care expenses. The appropriations bill simply liquidates this obligation by appropriating sums necessary to cover the cost of the Medicaid program. Congress, in the appropriations process, does not have the discretion to change the amount spent on Medicaid.

Discretionary Spending

By contrast, *discretionary spending* refers to those programs that are subject to annual funding decisions in the appropriations process. If the Congress decides to lower funding for a program of this type, it can simply reduce the annual appropriation. Unlike entitlement programs, generally no formulas need to be changed to alter funding levels. Most of the actual operations of the Federal Government are funded by discretionary spending. Examples of discretionary spending include funding for the Department of Defense, the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS), and the Environmental Protection Agency (EPA).

[1] http://budget.senate.gov/democratic/the_budget_process.pdf

Procedures for Spending

Excerpt from CRS Report: 98-721[2]
Updated December 28, 2004

"Introduction to the Federal Budget Process" (pages 7-8)
Robert Keith
Specialist in American National Government
Government Division

The procedures for discretionary and direct spending converge at two critical points in federal budgeting: formulation of the President's budget and formulation of the congressional budget resolution. Both of these policy statements encompass discretionary and direct spending, but the procedures used in budgeting for these types of expenditure differ greatly. The distinctions have some notable exceptions. Some procedures associated with direct spending are applied to particular types of discretionary programs, and vice versa. Nevertheless, the generalizations presented here help to explain the complications of the budget process and explain how decisions are made.

(1) Budgetary Impact of Authorizing Legislation. An authorization for a discretionary spending program is only a license to enact an appropriation. The amount of budgetary resources available for spending is determined in annual appropriations acts. For direct spending programs (principally entitlements), on the other hand, the authorizing legislation either provides, or effectively mandates the appropriation of, budget authority. In those entitlement programs that are subject to annual appropriation, the Appropriations Committees have little or no discretion as to the amounts they provide.

(2) Committees That Provide or Mandate Budget Authority. The Appropriations Committees have jurisdiction and effective control over discretionary spending programs, while authorizing committees effectively control direct spending programs (including those funded in annual appropriations acts). In fact, committee jurisdiction determines whether a program is classified as discretionary or direct spending. All spending under the effective control of the Appropriations Committees is discretionary; everything else is direct spending. Accordingly, when legislation establishes a program as discretionary or direct spending, it not only determines the character of spending but the locus of congressional committee control as well.

(3) Frequency of Decision-Making. Discretionary appropriations are, with few exceptions, made annually for the current or next fiscal year. Direct spending programs typically are established in permanent law that continues in effect until such time as it is revised or terminated by another law. The fact that many entitlements have annual appropriations does not diminish the permanence of the laws governing the amounts spent. It should be noted, however, that some direct spending programs, such as Medicare, have been subject to frequent legislative changes. The purpose of such legislation has been to modify existing law, not to provide annual funding.

(4) Means of Enforcing the Budget Resolution. The procedures used by Congress to enforce the policies set forth in the annual budget resolution differ somewhat for discretionary and direct spending programs. For both types of spending, Congress relies on allocations made under Section 302 of the 1974 Congressional Budget Act to ensure that spending legislation reported by House and Senate committees conforms to established budget policies. But although this procedure is effective in controlling new legislation — both annual appropriations measures and new entitlement legislation — it is not an effective control on the spending that results from existing laws. Hence, Congress relies on reconciliation procedures to enforce budget policies with respect to existing spending and revenue laws. Reconciliation is not currently applied to discretionary programs funded in annual appropriations measures.

[2] http://www.congress.gov/erp/rl/pdf/98-721.pdf

Paygo

Excerpt from CRS Report: RL34300[3]
Updated December 31, 2007

"Pay-as-you-go Procedures for Budget Enforcement"
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Specialist in American National Government
Government Division

"Pay-as-you-go" (PAYGO) procedures play an important role in enforcing budget policies with respect to the consideration of revenue and direct spending legislation. Generally, the purpose of PAYGO procedures is to discourage or prevent the enactment of legislation that would cause, or increase, a deficit or reduce a surplus. PAYGO procedures are not a comprehensive means of budget enforcement because they do not apply to discretionary spending, which is provided in annual appropriations acts; such spending is subject to other budget enforcement procedures. Further, PAYGO rules deal only with the budgetary impact of legislation considered during a session; they do not address changes in direct spending and revenue levels under current law stemming from changes in the economy, demographic trends, and other factors.

Over the years, several different PAYGO procedures have been used for budget enforcement purposes. The PAYGO procedures have been based in statute as well as congressional rules. Statutory and rules-based PAYGO procedures have been in effect simultaneously at times, while at other times only one form of PAYGO procedures was in effect. The scope and effect of PAYGO procedures have varied depending on their form.

At present, the House and Senate each have their own PAYGO rules, but the statutory procedures that existed for more than a decade effectively were terminated in late 2002. Efforts to restore the statutory PAYGO procedures so far have been unsuccessful, but new calls to restore them have been made in the 110th Congress.

Statutory PAYGO Procedures

The statutory PAYGO requirement was put into place by the Budget Enforcement Act (BEA) of 1990, which amended an underlying law, the Balanced Budget and Emergency Deficit Control Act of 1985; the PAYGO requirement was established as Section 252 of the 1985 Act.[4] Under the requirement, legislation proposing new direct spending or decreasing revenues for a fiscal year could not result in a net cost for that year. The PAYGO requirement generally was intended to preserve the sizeable deficit reduction that had been achieved by the Omnibus Budget Reconciliation Act of 1990, and to keep an on-budget deficit from being increased or an on-budget surplus from being reduced. For a more detailed discussion of the sequestration process, see CRS Report RL31137,*Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith.

The PAYGO balances for each fiscal year were maintained on a rolling PAYGO "scorecard" that accumulated the budgetary effects of laws enacted during the session and in prior years. The threshold test for a PAYGO sequester dealt with how legislation affected the net cost for a fiscal year on the PAYGO scorecard, not how it changed the surplus or deficit for that fiscal year in the federal budget.

The sequestration process, established by the 1985 Balanced Budget Act and initially used to enforce the act's annual deficit targets, was retained by the BEA of 1990 as the means of enforcing the PAYGO requirement (as well as the discretionary spending limits in Section 251 of

[3] http://www.congress.gov/erp/rl/pdf/RL34300.pdf
[4] The BEA of 1990 was Title XIII of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508; November 5, 1990; see 104 Stat. 1388-573 through 630).

the 1985 Balanced Budget Act).[5] Under the sequestration process, the director of the Office of Management and Budget (OMB) issued a sequestration report at the time the President's budget was submitted to Congress (the preview report), midway through the congressional session (the update report), and within 15 days after the end of the session (the final report).

If the OMB director's final sequestration report indicated that enacted direct spending and revenue levels had incurred a net cost for the fiscal year beginning on October 1 (the "budget year") on the PAYGO scorecard, then the President was required to immediately issue a sequestration order to remedy the violation through automatic, largely across-the-board spending reductions. If a sequester under this process was required, it had to occur within 15 calendar days after Congress adjourned at the end of a session and on the same day as any sequestration tied to enforcement of the discretionary spending limits. The sequester had to eliminate any net positive balance on the PAYGO scorecard, for the budget year and the prior fiscal year (the "current year") combined, caused by the enactment of legislation during the session and in prior years. The purpose behind adding in the balance for the current year was to fully capture the budgetary effects of any direct spending and revenue legislation enacted into law after the final sequestration report for a fiscal year had been issued but before the next congressional session got underway, thereby closing any enforcement loophole.

As extended in 1993 and 1997, the PAYGO requirement applied to legislation enacted through the end of FY2002, but it covered the effects of such legislation through FY2006.[6] The PAYGO requirement effectively was terminated in December 2002 by the enactment of P.L. 107-312, which set all remaining balances on the PAYGO scorecard to zero.[7]

The OMB director issued 12 final sequestration reports under the PAYGO process, for FY1992-FY2003. The final combined balances on the PAYGO scorecard for all years, as determined by the OMB director, either were negative amounts (reflecting net savings) or zero. Accordingly, no PAYGO sequester was required for any fiscal year during this period.

While the OMB director's final determinations indicated compliance with the PAYGO requirement in all years, in some cases the balances reflected adjustments due to emergency requirements, provided for under the process, or directed scorekeeping provisions in law that intervened in the normal operation of the process in order to prevent a sequester.

Section 252 of the 1985 Balanced Budget Act provided that any provision of direct spending or revenue legislation could be designated by the President and Congress as an "emergency requirement." The budgetary impact of any provision so designated was not scored on the PAYGO scorecard. Although the emergency designation was used often for discretionary spending provisions in annual appropriations acts, it rarely was used for direct spending or revenue provisions. The most significant emergency designation under the PAYGO process applied to the Job Creation and Worker Assistance Act (P.L. 107-147), which removed net costs of nearly $89 billion from the PAYGO scorecard over the period covering FY2002- FY2006.

Congress and the President enacted legislation intervening in the operation of the PAYGO process largely to deal with two different types of problems. First, in some years, the enactment of deficit-reduction measures would have resulted in large negative balances on the PAYGO scorecard that were not intended. The savings reflected in these balances could have been used to offset direct spending increases or revenue reductions that were not contemplated by the budget resolution. Second, in more recent years, the budget resolution recommended significant reductions in revenues, coupled with increases in direct spending, that would have incurred substantial positive balances (reflecting net costs) on the PAYGO scorecard.

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[5] For a more detailed discussion of the sequestration process, see CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith.

[6] The PAYGO requirement was extended through FY1998 by the Omnibus Budget Reconciliation Act (OBRA) of 1993 and through FY2002 by the Budget Enforcement Act (BEA) of 1997. OBRA of 1993 is P.L. 103-66 (August 10, 1993); see Title XIV at 107 Stat. 683-685. The BEA of 1997 is Title X of P.L. 105-33 (August 5, 1997), the Balanced Budget Act of 1997; see 111 Stat. 677-712.

[7] For more information on this topic, see CRS Report RS21378, *Termination of the "Pay-As-You-Go" (PAYGO) Requirement for FY2003 and Later Years*, by Robert Keith.

As a result of these two concerns, Congress and the President enacted provisions in at least seven different laws intervening significantly in the normal operation of the PAYGO requirement. The interventions involved scorekeeping directions to the OMB director that prohibited him from counting direct spending or revenue changes in certain legislation on the PAYGO scorecard, or that instructed him to reduce balances on the PAYGO scorecard or to set them to zero.

The seven measures containing directed scorekeeping provisions did not make adjustments in the FY1991-FY1993 balances on the PAYGO scorecard. For FY1994-FY2000, the net effect of the adjustments each year was to remove savings balances from the scorecard or to not count savings provisions in legislation. These nets effects ranged from $13.991 billion (for FY1999) to $140.221 billion (for FY1998). The cumulative effect of all provisions to remove or not count savings through FY2006 was $628.980 billion.

For FY2001-FY2006, the net effect of the adjustments each year was to remove cost balances from the scorecard or to not count cost provisions in legislation. These net effects ranged from $9.214 billion (for FY2002) to $150.790 billion (for FY2004). The cumulative effect of all provisions to remove or not count costs through FY2006 was $731.527 billion.

Proposals have been made from time to time to restore the statutory PAYGO requirement, but disagreements have centered on whether it should apply to both direct spending and revenue legislation (as originally framed and generally favored by Democrats) or only to direct spending legislation (as generally favored by Republicans).

In the 108th Congress, President George W. Bush submitted draft legislation to Congress, the Spending Control Act of 2004, that would have restored the discretionary spending limits and the PAYGO requirement for direct spending legislation only. The House Budget Committee reported a bill, H.R. 3973 (H.Rept. 108-442; March 19, 2004), reflecting the President's proposal; a comparable measure, H.R. 4663, was considered in the House on June 25, 2004, but failed to pass
by a vote of 146-268.

In the 110th Congress, interest has been renewed in restoring a comprehensive PAYGO requirement.[5] Section 508 (Sense of Congress Regarding Extension of the Statutory Pay-As-You-Go Rule) of the FY2008 budget resolution, S.Con.Res. 21, states: "It is the sense of Congress that in order to reduce the deficit Congress should extend PAYGO consistent with provisions of the Budget Enforcement Act of 1990." No action has been taken so far in the 110th Congress on legislation to carry out this sense-of-Congress statement.

Rules-Based PAYGO Procedures

The Senate has had its own PAYGO rule since 1993, while the House did not adopt its own PAYGO rule until 2007. Consequently, for the first time since PAYGO procedures were put into effect, both the House and Senate now have PAYGO rules. Although there are differences in the two rules, they essentially are the same in their fundamental purpose — to discourage the consideration and enactment during a session of direct spending and revenue legislation that is not deficit neutral.

The House PAYGO Rule

The House established its own PAYGO rule in2007, during the first session of the 110th Congress, following several unsuccessful attempts to do so in prior years. On January 4, 2007, the House began consideration of H.Res. 6, a measure introduced by the House Majority Leader, Representative Steny Hoyer, establishing the chamber's rules for the 110th Congress. The measure was considered under the terms of a special rule, H.Res. 5, introduced by the chair of the House Rules Committee, Representative Louise Slaughter. The special rule, which had been agreed to that day by a vote of 235-195, required that each of the five titles of H.Res. 6 be considered separately. Titles I and II of H.Res. 6 were agreed to on January 4, and the remaining three titles were agreed to on January 5, thus completing action on the measure.

Title IV (Fiscal Responsibility) sets forth several changes in the budget process, including a bar against the consideration of a budget resolution containing reconciliation directives that would increase the deficit or reduce the surplus (Section 402); a requirement that points of order under Title III of the 1974 Congressional Budget Act apply to measures considered under a special rule even if they have not been reported by committee (Section 403); and congressional earmark reform (Section 404). Section 405 sets forth the House's PAYGO rule, as Clause 10 of Rule XXI.9 Title IV was agreed to by a vote of 280-152.[8] The House's PAYGO rule, like the Senate's PAYGO rule, requires that legislation affecting direct spending or revenues not increase the deficit over a sixyear period, including the current year, the upcoming fiscal year, and the four following fiscal years, as well as an 11-year period (the previously cited period and the ensuing five fiscal years).[9] Unlike the Senate's rule, the House's rule also bars the consideration of direct spending legislation that would reduce the surplus. The rule is enforced on the basis of estimates made by the House Budget Committee relative to the baseline projections made by the Congressional Budget Office under established procedures.

[8] The 280 affirmative votes included 232 Democrats and 48 Republicans; the 152 negative votes included no Democrats and 152 Republicans.
[9] The House's PAYGO rule is discussed in more detail in CRS Report RL33850, *The House's "Pay-As-You-Go" (PAYGO) Rule in the 110th Congress: A Brief Overview*, by Robert Keith.

CBO: Congressional Budget Office

The Congressional Budget Office (CBO) was created under the Congressional Budget Control and Impoundment Act of 1974. "[The primary role of CBO] is to provide budget-related information to all committees of both Houses, with priority on the House side given to the needs of House Committees on the Budget, Appropriations, and Ways and Means. The law also requires CBO to prepare several budget projections each year and to perform studies of budgetary issues. In addition, CBO must prepare estimates of new budget authority, outlays, or revenues that would result from bills or joint resolutions reported from committees of either House, and of the costs that the government would incur in carrying out the provisions of the proposed legislation. Those cost estimates are usually included in the committee reports accompanying bills or resolutions before action in the House or the Senate."[10]

"[Additionally], The Unfunded Mandates Reform Act of 1995 requires CBO to estimate the costs of federal mandates in legislation that would affect state, local, and tribal governments or the private sector. The act also authorizes CBO to prepare analyses and studies of the budgetary or financial impact of proposed legislation that may significantly affect state and local governments or the private sector, to the extent practicable, at the request of any committee."[11]

"Occasionally, other laws have directed CBO to analyze specific subjects. Such analyses have included the treatment of administrative costs under credit reform accounting and the financial risks posed by government-sponsored enterprises." [12]

As it assists the House and Senate Budget Committees, and the Congress more generally, CBO prepares a variety of reports and analyses.

"The documents that CBO publishes fall into two main categories:

- Cost estimates and mandate statements, for every bill when it is reported by a Congressional committee and, upon request, for bills at other stages of the legislative process.
- Publications of various types, including:
    - Reports needed for the budget process, such as *The Budget and Economic Outlook*, *An Analysis of the President's Budget*, and other annual, biannual, and semiannual reports.
    - Analytical studies, which explore economic and budgetary issues involving the federal government.
    - Briefs, which provide short analyses of policy issues.
    - The *Monthly Budget Review*, which summarizes the fiscal activity of the government during the previous month.
    - Background papers and related documents, which describe the assumptions and technical methods underlying various aspects of CBO's analyses." [13]

[10] CBO' Policies for Preparing and Distributing Its Estimates and Analyses. Congressional Budget Office. 11 February 2008. http://www.cbo.gov/aboutcbo/policyforestimates.pdf. p.1
[11] CBO' Policies for Preparing and Distributing Its Estimates and Analyses. Congressional Budget Office. 11 February 2008. http://www.cbo.gov/aboutcbo/policyforestimates.pdf. p.1
[12] CBO' Policies for Preparing and Distributing Its Estimates and Analyses. Congressional Budget Office. 11 February 2008. http://www.cbo.gov/aboutcbo/policyforestimates.pdf. p.1.
[13] What CBO Publishes. Congressional Budget Office. 3 January 2008. http://www.cbo.gov/aboutcbo/publishes.shtml

Baseline

"In late January of each year, CBO reports on the economic and budget outlook, including estimates of spending and revenue levels for the next 10 years under current law. This so-called budget baseline serves as a neutral benchmark against which Members of Congress can measure the budgetary effect of proposed legislation. The baseline is constructed according to rules set forth in law, which generally instruct CBO to assume that current spending and revenue laws continue without change. Thus, the baseline is not a prediction of future budget outcomes. Rather, it reflects CBO's best judgment about how the economy and other factors will affect federal revenues and spending under existing laws. Each summer, CBO updates its baseline projections, incorporating a new economic forecast and the effects of laws that have been enacted to date in that session of Congress."[14]

What Baselines Can and Cannot Do

Excerpt from CRS Report: RL31414 (pages 1-2)[15]
Updated January 30, 2007

"Baseline Budget Projections: A Discussion Issues"
Marc Labonte.
Specialist in Macroeconomics
Government and Finance Division

What Baselines Can Do

Both CBO and the Office of Management and Budget (OMB) produce baseline projections of the budget semi-annually. The purpose of the baseline is to project revenues and outlays under current policy over the next 10 years. A concise definition of the baseline comes from CBO:

> **The baseline is intended to provide a neutral, nonjudgmental foundation for assessing policy options. It is not "realistic," because tax and spending policies will change over time. Neither is it intended to be a forecast of future budgetary outcomes. Rather, the projections ... reflect CBO's best judgment about how the economy and other factors will affect federal revenues and spending under existing policies.(2)**

Thus, headlines such as "CBO baseline predicts that the budget will be balanced by 2012" or "Changes in the baseline projections prove policy change was unaffordable" are a misuse of the baseline. As indicated in the CBO quote, the baseline is not a "best guess" of future policy outcomes.

The proper way to use a baseline is as a rule-of-thumb estimate for the budgetary ramifications of current policy. This offers the policymaker a means to measure the relative effects of proposed legislation in the context of the overall budget. Current policy is very narrowly defined in these projections. It does not include proposals made in adopted budget resolutions, bills passed by only one chamber, or even bills passed by both chambers but not yet signed into law.

What Baselines Cannot Do

Without a baseline projection, policymakers would be in the dark when planning the budget. Nevertheless, an overriding focus on the baseline projection can lead to radically misleading conclusions. This is true for three reasons.

First, baseline projections are only as accurate as the assumptions underlying them. Critics have argued that several of the underlying assumptions or rules followed by CBO and OMB in

[14] CBO's Role in the Budget Process: Budget and Economic Outlook. Congressional Budget Office. 3 January 2008. http://www.cbo.gov/aboutCBO/budgetprocess.shtml.
[15] http://www.congress.gov/erp/rl/pdf/RL31414.pdf

making the budget baselines are not as realistic as they could be. Applying alternative assumptions to the baseline could significantly increase the projected size of the deficit. As discussed more fully below, the baseline treatment of discretionary spending, supplemental spending on military operations in Iraq and Afghanistan, expiring tax provisions, and the alternative minimum tax are four assumptions that have been criticized.

Second, budget estimates and projections are highly sensitive to relatively small changes in the underlying assumptions and economic factors. These changes can have substantial effects on the deficit projection, and the effect on the projection compounds when extrapolated into the future. In particular, our understanding of the economy remains limited and economic forecasts remain subject to extremely large margins of error, even over short time periods. Thinking of the baseline projection as a certain outcome can distort the policymaking process.

Third, baseline projections are limited to current-year expenditures (for 10 years). Although one would expect 10 years to be a more than adequate time horizon to assess the course of future policy, the United States faces a unique situation beyond that horizon: the retirement of the baby boomers. Under current policy, their retirement, coupled with rising medical costs, would lead to a large expansion in funds dedicated to Social Security and Medicare that is likely to place an unsustainable strain on government finances. Because their retirement will mostly occur outside the 10-year window, the baseline does not reflect this problem. In a narrow sense, it should not reflect the problem, for the baseline is not supposed to advocate policy changes. Nevertheless, to the extent that the baseline frames the budget debate, critics argue that a baseline that makes unsustainable policy appear sustainable is misleading.

Scoring

In order for Congress to act on legislation, Congress must be informed of an item's impact on future budgeting. Thus, CBO is required to develop a measure of impact or cost estimate, for virtually every bill reported by Congressional committees to show how it would affect spending or revenues. [16] This measure is often described as 'scoring' or 'scorekeeping'. "For most tax legislation, CBO uses estimates provided by the Joint Committee on Taxation, a separate Congressional analytic group that works closely with the two tax-writing committees. CBO also prepares cost estimates for use in drafting bills (especially in the early stages), formulating floor amendments, and working out the final form of legislation in conference committees. To the extent that its resources permit, CBO estimates the cost of bills at the request of individual Members."[17]

"Scoring discretionary spending measures is a much simpler task than scoring direct spending and revenue legislation. In the latter case, scoring always is done in reference to baseline projections of future revenues and spending. Most appropriations are for a definite amount and the budget authority is provided for a single fiscal year. The main task is to estimate the outlays that will derive in the next year and beyond from the budget authority provided in the appropriations bill. CBO and the Appropriations Committees base these estimates on outlay (or spendout) rates — the percentage of budget authority that is spent in each year. These outlay rates vary by account and are based on historical records. For example, if $1 billion is appropriated to an account that has a spendout rate of 80% in the first fiscal year that funds become available, the outlay estimate for that fiscal year will be $800 million; the remaining $200 million will become outlays in one or more subsequent years.[18]

Scorekeeping is much more complex in enforcing a PAYGO requirement. For one thing, unlike appropriations, revenue and direct spending legislation usually is open-ended; it does not specify the amount by which revenue or spending will be changed. For another, the impact of this type of legislation continues in future years. In enforcing the statutory PAYGO requirement, Congress had to estimate the revenue gain or loss for the ensuing five years; under the Senate PAYGO rule, revenue estimates must cover 10 years. Congress cannot develop the revenue estimates simply by referring to the text of the legislation being scored. It must also take into account the behavior of taxpayers, economic conditions, and other factors that affect revenue collection."[19]

"Keep in mind that each CBO estimate provided… is for a bill or resolution at a particular stage of the legislative process and that the bill--and its estimated budgetary effects--may have changed since the estimate was prepared.[20]

"In addition to regular cost estimates (prepared primarily for committee-reported bills), CBO prepares estimates for legislation that has been cleared by the Congress and for which CBO estimates an impact on either direct spending or governmental receipts."[21]

"CBO's cost estimates have become an integral part of the legislative process, and committees increasingly refer to them at every stage of drafting bills. The estimates may also have an

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[16] Background on Cost Estimates. Congressional Budget Office. 11 February 2008. http://www.cbo.gov/CEBackground.shtml.
[17] Background on Cost Estimates. Congressional Budget Office. 11 February 2008. http://www.cbo.gov/CEBackground.shtml.
[18] Robert Keith. "Introduction to the Federal Budget Process," CRS Report: 98-721, December 28, 2004, p. 8. http://www.congress.gov/erp/rl/pdf/98-721.pdf.
[19] Robert Keith. "Introduction to the Federal Budget Process," CRS Report: 98-721, December 28, 2004, p. 8. http://www.congress.gov/erp/rl/pdf/98-721.pdf.
[20] Background on Cost Estimates. Congressional Budget Office. 3 January 2008. http://www.cbo.gov/CEBackground.shtml.
[21] Background on Cost Estimates. Congressional Budget Office. 3 January 2008. http://www.cbo.gov/CEBackground.shtml.

impact on the final outcome of legislation because they are used to determine whether committees are complying with the annual budget resolutions and reconciliation instructions."[22]

Unfunded Mandates

Excerpt From: A Review of CBO's Activities in 2006 Under the Unfunded Mandates Reform Act (p. 1)
April 2007
Congressional Budget Office[23]

The Federal Government – through laws and regulations – sometimes requires that state, local, and tribal governments and various entities in the private sector expend resources to achieve national goals. In 1995, the Unfunded Mandates Reform Act (UMRA) was enacted to ensure that, during the legislative process, the Congress receives information about particular requirements that it considers to be federal mandates before enacting legislation that would affect state, local, or tribal governments or private-sector entities. Similarly, the act seeks to ensure that such information is provided to the executive branch agencies during the rulemaking process.

UMRA defines a mandate as an position in legislation, statute, or regulation that would impose an enforceable duty on state, local, or tribal governments or on the private sector; that would reduce or eliminate funding authorized to cover the costs of existing mandates; or that would increase the stringency of conditions that apply to certain mandatory programs or make cuts in federal funding for those programs. Duties are imposed as a condition of federal assistance or that arise from participation in a voluntary federal program generally not mandates as defined by UMRA.

The act consists of four titles, the first of which specifically applies to the Congressional Budget Office (CBO). Title I of UMRA requires that CBO provide Congress with information about the costs of proposed federal mandates. CBO fulfills its responsibilities under UMRA by preparing mandate statements that address whether mandates are contained in a bill and whether they would impose direct costs that are greater than the statutory thresholds established by UMRA. (In 2006, those thresholds, which are adjusted annually for inflation, were $64 million for intergovernmental mandates and $128 million for private-sector mandates.) If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and why.

UMRA also established procedural rules for both the House and Senate that enforce requirements of title I through the use of points of order. A point of order can be raised in the House or Senate against the consideration of legislation if the committee reporting a bill has not published a statement by CBO on intergovernmental and private-sector mandates. (Title I specifically requires that authorizing committees add information about mandates to their reports, including mandate statements prepared by CBO.) In addition, Members of Congress may raise a point of order against legislation that creates an intergovernmental mandate which costs above the threshold specified in UMRA- unless the legislation authorizes or provides funding to cover these costs. If a point of order is raised under UMRA, each chamber resolves the issue according to its established rules and procedures. Although such procedural requirements do not preclude the Congress from passing bills that contain mandates, they may introduce additional hurdles to passage.

[22] Background on Cost Estimates. Congressional Budget Office. 3 January 2008. http://www.cbo.gov/CEBackground.shtml.
[23] 3 January 2008. http://www.cbo.gov/ftpdocs/79xx/doc7982/04-03-UMRA.pdf.

The Role of the Office of Management and Budget in Budget Development

CRS Report: RS20167
August 28, 2003

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The Office of Management and Budget (OMB) assists the President in carrying out his budgetary duties. Originally created by the 1921 Budget and Accounting Act as the Bureau of the Budget, it was reconstituted as OMB in 1970. Its primary function is to oversee the development and implementation of the federal budget. For more information on budget process, see [http://www.crs.gov/products/guides/guidehome.shtml].

The OMB and its director play a unique role in the preparation of the President's budget submission to Congress. As the overseer of budget development for the President, OMB sets forth the framework by which agencies formulate their budget requests, and is responsible for ensuring agency budget requests are consistent with the President's agenda and policy goals. As a consequence, the OMB director potentially can wield a great deal of influence over agency budget requests and the final shape of the President's budget.

Each spring, approximately 10 months before the President's budget is submitted to Congress, the initial formation of the budget begins at the agency level. At the same time, OMB reviews major policy issues and updates its multi-year forecasts for spending and revenue. Once OMB completes its review, the budget outlook and policy alternatives are presented to the President. After the President makes his initial policy decisions regarding the budget, OMB is responsible for notifying federal departments and agencies. These decisions may include specific budgetary guidelines and spending ceilings to be used by agencies in the preparation of their budgets. Generally, these instructions vary from year to year depending on current budgetary and political conditions.

OMB communicates process and policy guidelines to agencies through circulars, bulletins, and other detailed communications. In particular, OMB Circular No. A-11 contains detailed instructions and schedules for submission of agency budget requests and other material to ensure that budget requests adhere to standardized conventions and formats. OMB staff also maintain ongoing contact with agencies as they formulate their budget requests to provide guidance and to keep apprised of agencies' budgetary concerns.

Agencies submit their formal budget requests to OMB in early fall, usually about five months before the President submits his budget to Congress (and about 13 months before the start of the fiscal year). OMB staff responsible for each particular department or agency review the initial budget requests and clarify any policy and technical questions with agency officials. If an agency includes legislative initiatives in its budget request, OMB determines whether the proposals are consistent with the President's policy goals. Then, based on these evaluations, OMB staff make recommendations regarding program policy and spending levels to the OMB director. Final decisions are made by the OMB director, and agencies are notified of these decisions through what is known as an OMB "passback." If an agency disagrees with aspects of the passback, it may appeal to the director, or in some cases, directly to the President. Once a final decision is made, the agency must revise its budget request accordingly.

The finalized agency budgets, as modified, are then incorporated into the budget the President submits to Congress. OMB is responsible for preparing the accompanying budget documents that provide an explanation and justification of the President's government-wide budget policy. The budget documents then are printed and submitted to Congress and the public.

OMB also assists in the integration of program performance and budgeting. For instance, under the Government Performance and Results Act (GPRA) of 1993 (P.L. 103-62), OMB is required to have agencies prepare annual performance plans along with their budget requests. The annual performance plans set out measurable performance goals for the fiscal year, a description of the operational processes and resources necessary to meet the performance goals, and a description of how the measured values will be verified and validated. Like agency budget requests, agency performance plans are submitted to OMB for review in early fall. OMB staff review the agency performance plans, and the OMB director gives final approval to these plans. Agencies must revise their performance plans to reflect these decisions. Based on these agency annual performance plans, OMB is required to prepare a government-wide performance plan as a part of the President's budget.

In addition, as part of President George W. Bush's Management Agenda, OMB has developed the Performance Assessment Resource Tool (PART) to evaluate the performance of programs. The "accountability tool" is intended to assist OMB budget examiners and agency program managers in making "evidence-based funding decisions." For further information on GPRA and PART, see CRS Report RS20938, Performance Management and Budgeting: Benchmarks and Recent Developments.

The President's Budget

Excerpt from CRS Report: 98-721[24]
Updated December 28, 2004

Introduction to the Federal Budget Process (pages 10-12)
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Overview

The President's budget, officially referred to as the *Budget of the United States Government*, is required by law to be submitted to Congress early in the legislative session, no later than the first Monday in February. The budget consists of estimates of spending, revenues, borrowing, and debt; policy and legislative recommendations; detailed estimates of financial operations of federal agencies and programs; data on the actual and projected performance of the economy; and other information supporting the President's recommendations.

The President's budget is only a request to Congress; Congress is not required to adopt his recommendations. Nevertheless, the power to formulate and submit the budget is a vital tool in the President's direction of the executive branch and of national policy. The President's proposals often influence congressional revenue and spending decisions, though the extent of the influence varies from year to year and depends more on political and fiscal conditions than on the legal status of the budget.

The Constitution does not provide for a budget, nor does it require the President to make recommendations concerning the revenues and spending of the federal government. Until 1921, the federal government operated without a comprehensive presidential budget process. The Budget and Accounting Act of 1921, as amended, provides for a national budget system. Its basic requirement is that the President should prepare and submit a budget to Congress each year. The 1921 act established the Bureau of the Budget, not named the Office of Management and Budget (OMB), to assist the President in preparing and implementing the executive budget. Although it has been amended many times this statute provides the legal basis for the presidential budget, prescribes much of its content, and defines the roles of the President and the agencies in the process.

Formulation and Content of the President's Budget

Preparation of the President's budget typically begins in the spring (or earlier) each year, at least nine months before the budget is submitted to Congress, about 17 months before the start of the fiscal year to which it pertains, and about 29 months before the close of that fiscal year. The early stages of budget preparation occur in federal agencies. When they begin work on the budget for a fiscal year, agencies already are implementing the budget for the fiscal year in progress and awaiting final appropriations actions and other legislative decisions for the fiscal year after that. The long lead times and the fact that appropriations have not yet been made for the next year mean that the budget is prepared with a great deal of uncertainly about economic conditions, presidential policies, and congressional actions.

As agencies formulate their budgets, they maintain continuing contact with the OMB examiners assigned to them. These contacts provide agencies with guidance in preparing budgets and also enable them to alert OMB to any needs or problems that may loom ahead. Agency requests are submitted to OMB in late summer or early fall; these are reviewed by OMB staff in consultation with the President and his aides. The 1921 Budget and Accounting Act bars agencies from submitting their budget requests directly to Congress. Moreover, OMB regulations provide for confidentiality in all budget requests and recommendations prior to the transmittal of the

[24] http://www.congress.gov/erp/rl/pdf/98-721.pdf

President's budget to Congress. However, it is quite common for internal budget documents to become public while the budget is still being formulated.

The format and content of the budget are partly determined by law, but the 1921 act authorizes the President to set forth a budget in "such form and detail" as he may determine. Over the years, there has been an increase in the types of information and explanatory material presented in the budget documents.

In most years, the budget is submitted as a multi-volume set consisting of a main document setting forth the President's message to Congress and an analysis and justification of his major proposals (the *Budget*) and supplementary documents providing account and program level details, historical information, and special budgetary analyses (the *Budget Appendix*, *Historical Tables*, and *Analytical Perspectives*), among other things.

Much of the budget is an estimate of requirements under existing law rather than a request for congressional action (more than half of the budget authority in the budget becomes available without congressional action.) The President is required to submit a budget update (reflecting changed economic conditions, congressional actions, and other factors) referred to as the *Mid-Session Review*, by July 15 each year. The President may revise his recommendations any time during the year.

Executive Interaction with Congress

The President and his budget office have an important role once the budget is submitted to Congress. OMB officials and other presidential advisors appear before congressional committees to discuss overall policy and economic issues, but they generally leave formal discussions of specific programs to the affected agencies. Agencies thus bear the principal responsibility for defending the President's program recommendations at congressional hearings.

Agencies are supposed to justify the President's recommendations, not their own. OMB maintains an elaborate legislative clearance process to ensure that agency budget justifications, testimony, and other submissions are consistent with presidential policy.

Increasingly in recent years, the President and his chief budgetary aides have engaged in extensive negotiations with Congress over major budgetary legislation. These negotiations sometimes have occurred as formal budget 'summits' and at other times as less visible, behind-the-scenes activities.

Budget Laws and the Budget Committees

History of the Budget Laws

Excerpt From: The Congressional Budget Process: An Explanation (p. 6-10)[25]
December 1998
Senate Budget Committee

Congressional Budgeting Prior to 1974

Prior to the enactment of the Congressional Budget Act of 1974, Congress often wrestled with how to effectively oversee increasing government expenditures. In the late 19th century and the early 20th century, Congress enacted a number of laws to control and coordinate spending by the executive branch. Similar efforts were made during the 1940's with respect to the legislative branch; however, none of these changes endured. In 1974, Congress enacted the Congressional Budget and Impoundment Control Act to coordinate and control the legislative branch's budget activities and to curb the President's impoundment powers.

The Anti-Deficiency Act

In 1870, the legislative appropriations bill was the vehicle for a number of reforms relating to appropriations practices, including the section later known as the Anti-Deficiency Act. This was the first major effort by Congress to exert more control over Government expenditures. At the time, agencies frequently obligated more funds than they had been appropriated and then submitted ''coercive deficiency'' requests to Congress to pay their bills. The Anti-Deficiency Act provided that no department could make greater expenditures during a fiscal year than had been provided by Congress. In addition, the departments could not enter into contracts for the future payment of money in excess of appropriations.

The Budget and Accounting Act of 1921

The Budget and Accounting Act of 1921 was enacted in response to the consensus that developed shortly after the turn of the century that a more centralized approach to financial policy and processes was needed, in both the executive and legislative branches. The Act codified the submission of the President's budget and created the Bureau of the Budget (the predecessor to the Office of Management and Budget (OMB)) to oversee the executive budget process. The Act also established the General Accounting Office (GAO), since renamed the Government Accountability Office, as the government's auditor, responsible only to Congress. The mission of GAO is to provide Congress with an independent audit of executive accounts and to report on violations of the fiscal statutes.

Joint Committee on the Reduction of Federal Expenditures

The Joint Committee was established by the Revenue Act of 1941. Its membership was composed of the members of the House and Senate Appropriations Committees. The staff of the committee tracked Congressional action against the President's budget request, generally using Bureau of the Budget estimates. Scorekeeping reports of Congressional action were published on a regular basis when Congress was in session. The Joint Committee was replaced by the Congressional Budget Office following enactment of the Budget Act.

Joint Committee on the Legislative Budget

The Legislative Reorganization Act of 1946 created the Joint Committee on the Legislative Budget. Its membership was comprised of members of the House and Senate Appropriations

[25] 3 January 2008. http://budget.senate.gov/democratic/the_budget_process.pdf

Committees, the Senate Finance Committee and the House Ways and Means Committee. The Joint Committee was to meet at the beginning of each session of Congress and report to their respective Houses a legislative budget for the ensuing fiscal year, including total estimated Federal receipts and expenditures. A concurrent resolution was to accompany the report adopting such a budget, which would fix the maximum amount to be appropriated during the year. If estimated expenditures were to exceed estimated receipts, the resolution was to include a statement that it was the sense of Congress that the public debt would be increased by that amount. Attempts were made in 1947 and 1948 to carry out the intent of the legislative budget provision. In 1947, conferees were unable to reach a final agreement. In 1948, a joint resolution was adopted by both Houses, but a strongly worded minority report noted basic defects in the procedure. No further attempts were made to comply with the Act after 1949.

President's Commission on Budget Concepts

In 1967, President Johnson appointed a commission to make a thorough study of the federal budget and the manner of its presentation. The Commission's most important recommendation was that a unified budget presentation replace the several competing and confusing measures of the total scope of federal financial activity. The report of the President's Commission on Budget Concepts serves as the foundation for most budgetary concepts used at the present time.

The Congressional Budget Act: Need for the law in the 1970's

Two developments provided the impetus for the enactment of the Budget Act in 1974. One development was an increasing realization by Congress that it had no means to develop an overall budget plan. Prior to 1974, Congress responded to the President's budget (which contains the President's many spending and revenue proposals) each year in a piece-meal fashion. There existed no framework for Congress to establish its own spending priorities before work began on specific spending and revenue bills during the spring and summer.

A second, and more immediate, cause for passage of the Budget Act was a dispute in the early 1970's regarding presidential authority to impound money appropriated by Congress. During this time, President Nixon repeatedly asserted authority (as had many of his predecessors) to withhold from Federal agencies money appropriated by Congress. By 1973, it was believed that President Nixon had impounded up to $15 billion of spending previously approved by Congress. A large portion of these funds were to have gone towards the building of highways and pollution control projects. Many in Congress disputed these actions by the President. The authorization for the pollution control projects, for example, had been enacted by Congress in 1972 with a strong vote in both Houses overriding President Nixon's veto. Nonetheless, the President impounded much of this spending. These events led Members of Congress to seek a legislative solution.

In 1974 Congress enacted the Congressional Budget and Impoundment Control Act to establish procedures for developing an annual congressional budget plan and achieving a system of impoundment control. The Budget Act also created, for the first time, congressional standing committees devoted solely to the budget. It also created the Congressional Budget Office (CBO) to serve as the ''scorekeeper'' for Congress. CBO is responsible for producing an annual economic forecast, formulating the baseline, reviewing the President's annual budget submission, scoring all spending legislation reported from committee and passed by the Congress, and preparing reports in compliance with the Unfunded Mandates Reform Act. CBO's policy with respect to providing estimates is set out in Appendix B. The Joint Committee on Taxation scores all revenue measures.

The Committee on the Budget

The Budget Act created the Budget Committees of the Senate and House and gave them the responsibility to draft Congress's annual budget plan and to monitor action on the budget for the Federal Government. For the first time, congressional institutions were in place whose unique concern would be Federal budgetary policy. As a result, the Budget Committee was, and remains

today, uniquely focused on the details of our Federal budget, the drafting of the budget resolution, and the compilation of reconciliation legislation.

The Budget Committee has jurisdiction over the congressional budget process and the operation of CBO…

Changes to the Budget Act since 1974

Gramm-Rudman-Hollings 1985 and 1987

In the face of ever increasing budget deficits, in 1985 Congress enacted the Balanced Budget and Emergency Deficit Control Act. This Act is known as Gramm-Rudman-Hollings-- after the Senate authors of the original bill (Senators Phil Gramm of Texas, Warren Rudman of New Hampshire, and Ernest F. Hollings of South Carolina).

Gramm-Rudman-Hollings established ``maximum deficit amounts.'' If the deficit exceeded these statutory limits, the President was required to issue a sequester order that would reduce all non-exempt spending by a uniform percentage. Gramm-Rudman-Hollings also made a number of changes to the congressional budget process to enforce maximum deficit amounts and to strengthen congressional budget enforcement procedures. The most significant change was to increase the margin necessary to waive certain points of order from a simple majority vote to a three-fifths margin in the Senate.

In July of 1986 in Bowsher v. Synar (478 U.S. 714, 1986), the Supreme Court held that the provision of Gramm-Rudman-Hollings that vested certain powers in the General Accounting Office violated the separation of powers doctrine of the Constitution. This was due to the Office's (a creature of Congress) role in implementing sequester orders. The Court found it unacceptable from a constitutional perspective for Congress to vest in a congressional entity a duty of the executive branch--the responsibility for executing a law. In 1987, Congress enacted the Balanced Budget and Emergency Deficit Control Reaffirmation Act, which corrected the constitutional flow in Gramm-Rudman-Hollings by assigning all the sequester responsibilities to the Office of Management and Budget (OMB), part of the executive branch. The 1987 Act also extended the system of deficit limits through fiscal year 1992.

The Budget Enforcement Act of 1990

It was not long, however, before Congress realized that despite Gramm-Rudman-Hollings procedures, the deficit continued to increase. In the spring of 1990, it became clear that the deficit was going to exceed the Gramm-Rudman's maximum deficit limit by nearly $100 billion. Later that year, OMB estimated that a sequester of $85 billion would be necessary to eliminate this excess deficit amount. Because Congress had exempted most of the budget from the sequester process, such a sequester order was going to require a 32 percent reduction in defense programs and a 35 percent reduction in non-defense programs. To respond to growing deficits, President Bush and the congressional leadership agreed to convene negotiations on the budget in May of 1990. Six months later, President Bush signed into law the Omnibus Budget Reconciliation Act of 1990, which represented the budget agreement negotiated between the Bush Administration and Congress.

Title XIII of this reconciliation act, the Budget Enforcement Act, constituted the enforcement provisions of the agreements. The 1990 Budget Enforcement Act (BEA) effectively replaced the Gramm-Rudman-Hollings system of deficit limits with two independent enforcement regimens: caps on discretionary spending and a pay-as-you-go requirement for direct spending and revenue legislation. The BEA also provided for enforcement by both the congressional and executive branch of the discretionary caps and the pay-as-you-go requirement.

Amendments Since 1990

The budget disciplines of the BEA were extended in the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997 and are due to expire at the end of FY 2002. In addition to extending spending discipline through FY 2002, the Balanced Budget Act of 1997 also made a number of changes to the Congressional Budget Act of 1974. These changes were largely technical in nature and were intended to conform the Act to current congressional practices and precedents.

The Congressional Budget

Excerpts from CRS Report: RL30297[26]
Updated March 5, 2007

"Congressional Budget Resolutions: Selected Statistics and Information Guide" (pages 1, 7-12)

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The Concurrent Resolution

The Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 88 Stat. 297-332), as amended, establishes the concurrent resolution on the budget as the centerpiece of the congressional budget process. The annual budget resolution is an agreement between the House and Senate on a budget plan for the upcoming fiscal year and at least the following four fiscal years. As a concurrent resolution, it is not presented to the President for his signature and thus does not become law. The budget resolution, however, provides the framework for subsequent legislative action on the annual appropriations bills, revenue measures, debt-limit legislation, reconciliation legislation, and any other budgetary legislation.

Congress has modified the congressional budget process several times since it was first established in 1974… As originally enacted, the Budget Act required that Congress adopt two budget resolutions each year. The first budget resolution, which was to be adopted by May 15, was advisory in nature. The second budget resolution, which was to be adopted by September 15 (about two weeks before the beginning of the fiscal year), was binding. The second budget resolution revised or reaffirmed the first budget resolution by taking into account budget and economic changes in the months since the first resolution. Additional budget resolutions could be adopted at any time.

The Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177, 99 Stat. 1038-1101) eliminated the requirement for a second budget resolution beginning in FY1987. For several preceding years, for FY1983-FY1986, Congress did not adopt a second budget resolution, but instead included a provision in the first budget resolution that made the spending and revenue totals in it binding automatically as of the beginning of the fiscal year.

Formulation and Content of the Budget Resolution

Following the submission of the President's budget in January or February, Congress begins formulating its budget resolution. The House and Senate Budget Committees are responsible for developing and reporting the budget resolution.

Within six weeks after the President's budget submission, each House and Senate committee is required to submit its "views and estimates" relating to budget matters under their jurisdiction to their respective Budget Committee (Section 301(d) of the Budget Act). These views and estimates, often submitted in the form of a letter to the chair and ranking member of the Budget Committee, typically include comments on the President's budget proposals and estimates of the budgetary impact of any legislation likely to be considered during the current session of Congress. The Budget Committees are not bound by these recommendations. The views and esti-

[26] http://www.congress.gov/erp/rl/pdf/RL30297.pdf

mates often are printed in the committee report accompanying the resolution in the Senate or compiled in a separate committee print in the House.

The budget resolution was designed to provide a framework to make budget decisions, leaving specific program determinations to the Appropriations Committees and other committees with spending and revenue jurisdiction. In many instances, however, particular program changes are considered when formulating the budget resolution. Program assumptions are sometimes referred to in the reports of the Budget Committees or may be discussed during floor action. Although these program changes are not binding, committees may be strongly influenced by these recommendations when formulating appropriations bills, reconciliation measures, or other budgetary legislation…

Content and Coverage of the Budget Resolution

Section 301(a) of the Budget Act requires that the budget resolution include the following matters for the upcoming fiscal year and at least the ensuing four fiscal years:

- aggregate levels of new budget authority, outlays, the budget surplus or deficit, and the public debt;
- aggregate levels of federal revenues and the amount, if any, by which the aggregate levels of federal revenues should be increased or decreased by legislative action;
- amounts of new budget authority and outlays for each of the major functional categories; and
- for purposes of Senate enforcement procedures, Social Security outlays and revenues (although these amounts are not included in the budget surplus or deficit totals due to their off-budget status).

In addition to the content required by the Budget Act, Section 301(b) lists several other matters that may be included in the budget resolution…

The most important of the optional matters is the inclusion of reconciliation directives provided by Section 310 of the Budget Act. Budget reconciliation is an optional two-step process Congress may use to bring direct spending, revenue, and debt-limit levels into compliance with those set forth in budget resolutions.[27] In order to accomplish this, Congress first includes reconciliation directives in a budget resolution directing one or more committees in each chamber to recommend changes in statute to achieve the levels of direct spending, revenues, debt limit, or a combination thereof, agreed to in the budget resolution. The legislative language recommended by committees then is packaged "without any substantive revision" into one or more reconciliation bills, as set forth in the budget resolution, by the House and Senate Budget Committees. In some instances, a committee may be required to report its legislative recommendations directly to its chamber.

Once the Budget Committees, or individual committees if so directed, report reconciliation legislation to their respective chambers, consideration is governed by special procedures.[28] These special rules serve to limit what may be included in reconciliation legislation, to prohibit certain amendments, and to encourage its completion in a timely fashion…

Another optional component of budget resolutions has been the inclusion of reserve funds. The reserve fund provisions generally provide for the revision of budget resolution aggre-

[27] For a more detailed discussion of the reconciliation process, see CRS Report RL33030, “The Reconciliation Process: House and Senate Procedures,” by Robert Keith and Bill Heniff, Jr..
[28] For a brief summary of these procedures, see CRS Report 98-814, Budget Reconciliation Legislation: Development and Consideration, by Bill Heniff, Jr.

gates, functional allocations, and committee allocations if certain deficit-neutral legislation is enacted or some other condition is met. Over the last decade, Congress often has included several reserve funds in budget resolutions... For instance, the FY2006 budget resolution (H.Con.Res. 95, 109th Congress) included 10 reserve funds.

In recent years, declaratory statements increasingly have been included in budget resolutions. These nonbinding statements express the sense of Congress, the sense of the House, or the sense of the Senate on various issues. Congress has included, on average, 24 declaratory statements in the last 10 budget resolutions (not including budget resolutions for FY1999, FY2003, FY2005, and FY2007 because Congress did not complete action on these measures) but only, on average, about two and a half declaratory statements in the first 18 budget resolutions.

The annual budget resolution also may require a deferred enrollment procedure (see Section 301(b)(3) of the Budget Act), under which all or certain bills providing new budget authority or new entitlement authority for the upcoming fiscal year cannot be enrolled until Congress has completed action on a reconciliation measure (or, prior to FY1987, a reconciliation measure or the second budget resolution). Budget resolutions for FY1981, FY1982, FY1983, and FY1984 contained deferred enrollment provisions.[29]

Lastly, Congress has included several other procedural provisions in budget resolutions. Under Section 301(b)(4) of the Budget Act, the so-called *elastic clause*, Congress may "set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of" the Congressional Budget Act in the budget resolution… Some of these procedural provisions include deferred enrollment; automatic second budget resolutions; special budgetary treatment of certain activities, such as the sale of government assets; and more recently, enforcement of a pay-as-you-go requirement in the Senate, and limits on advance appropriations…

Number of Years Covered by the Budget Resolution

Originally, the Budget Act mandated that budget resolutions cover only the upcoming fiscal year beginning on October 1 (referred to as the budget year). A desire to use the budget resolution as a tool for budget planning and other factors prompted Congress to expand this time frame to include the upcoming fiscal year as well as the two ensuing fiscal years. Congress used the authority provided by the elastic clause of the Budget Act to adopt three-year budget resolutions for the period covering the second budget resolution for FY1980 through the FY1986 budget resolution. The practice of including three fiscal years was formalized by the 1985 Balanced Budget Act.

The Budget Enforcement Act (BEA) of 1990 (Title XIII of P.L. 101-508, Omnibus Budget Reconciliation Act of 1990, 104 Stat. 1388-573-1388 through 630) temporarily extended to five fiscal years the period the budget resolution is required to cover. The 1990 BEA provision originally covered five-year periods beginning in FY1991 and continuing through FY1995; this provision was extended to cover the FY1996 through FY1998 budget resolutions in 1993 (Title XIV of P.L. 103-66, Omnibus Budget Reconciliation Act of 1993, 107 Stat. 683-685). As an integral part of Congress's goal of achieving a balanced budget by FY2002, the FY1996 and FY1997 budget resolutions covered seven and six fiscal years, respectively. The Budget Enforcement Act of 1997 (Title X of P.L. 105-33, Balanced Budget Act of 1997, 111 Stat. 677-712) amended the Budget Act to require permanently that a budget resolution cover the budget year and *at least* the four ensuing fiscal years…

Congress also may revise budget levels for the current year in the budget resolution, pursuant to Section 304 of the Budget Act. Congress has adopted 13 first budget resolutions that revised current-year budget levels.

[29] The FY 1983 Budget Resolution exempted legislation dealing with certain trust funds from its deferred enrollment provision

Consideration and Adoption of the Budget Resolution

Floor consideration of the budget resolution differs in the House and Senate. Section 305 of the Budget Act sets forth special procedures for the consideration of the budget resolution, generally to expedite its consideration. The House, however, regularly adopts a special rule, a simple House resolution, setting forth the terms for consideration of the measure. In particular, special rules have been used for more than a decade to limit the offering of amendments to a few major substitutes…

In contrast, floor consideration in the Senate is governed by the procedures set forth in the Congressional Budget Act. The procedures generally limit debate and prohibit certain amendments and motions.[30]

Amendments to the Budget Resolution

The House has considered, on average, almost seven amendments per budget resolution, agreeing to, on average, one of these.[31] The largest number of amendments considered was 45 in 1979; the largest number agreed to was 11 in 1979 (the first FY1983 budget resolution also was amended 11 times, but it subsequently was rejected)… The amending activity in the House during the last several years is in marked contrast to the early years of the congressional budget process. During the first eight years, the House considered, on average, more than 13 amendments per budget resolution, agreeing to, on average, three of these. In contrast, during the past 24 years, the House has considered very few amendments to budget resolutions, averaging almost four per budget resolution, and agreeing to even fewer of these. Of the 86 amendments considered by the House during this time period, only four were adopted. Since 1992, the House has rejected all amendments.

Contributing to this trend, the House special rule typically has allowed for consideration of only amendments in the nature of a substitute to the budget resolution. For example, between 1983 and 2006 (for the FY1984-FY2007 budget resolutions), 81 out of the 86 amendments to the budget resolution made in order by the special rule were amendments in the nature of a substitute. Only one of these 81 amendments in the nature of a substitute was agreed to; that one contained the budget resolution text recommended by the House Budget Committee offered by its chair at the time, Representative William H. Gray III (PA)…

Unlike the House, which has no reporting deadline for its budget committee to report a budget resolution, the Senate has an April 1 reporting deadline for the budget resolution.[32] In addition, the terms of debate and the consideration of amendments are not structured by a special rule, as in the House, but instead are governed by the procedures set forth in Section 305(b) of the Budget Act. Typically, a larger number of amendments is considered, consisting of substitute amendments as well as amendments that address specific issues.

During the period between 1975 and 2006, the Senate considered, on average, about 40 amendments per budget resolution, agreeing to, on average, 21 of these.[33] The largest number of amendments considered was 106 in 1998; the largest number agreed to was 57 in 1998 and 1999... In contrast to the House, the number of amendments considered by the Senate has increased in recent years. For the last 12 budget resolutions considered on the floor, the Senate considered, on average, 69 amendments per budget resolution, agreeing to, on average, about 41 of these. Amendments have been agreed to in the Senate at a much higher rate compared to

[30] For a discussion of these procedures, see CRS Report 98-511, Consideration of the Budget Resolution, by Bill Heniff, Jr.

[31] These averages, as well as the averages related to Senate amendments, derive from all first budget resolutions considered and adopted on the House or Senate floor. That is, the averages do not include amendments to budget resolutions that subsequently were rejected.

[32] For further information, see CRS Report RS20541, *Congressional Budget Resolutions: Reporting Deadline in the Senate*, by Robert Keith.

[33] This average does not include the FY2003 budget resolution because it was not considered on the Senate floor.

the House as well. For instance, in nine of the past 13 years in which a budget resolution was considered on the floor, the success rate for amendments has equaled or exceeded 60%.

Consequences of Failure to Pass a Budget Resolution: Deeming Resolutions

Excerpt from CRS Report: RL33122[34]
October 19, 2005

"Congressional Budget Resolutions: Revisions and Adjustments" (p. 14)
Robert Keith

"Deeming resolution" is a term that refers to legislation deemed to serve as an annual budget resolution for purposes of establishing enforceable budget levels for a budget cycle.[35] A deeming resolution is used when the House and Senate are late in reaching final agreement on a budget resolution or fail to reach agreement altogether.

The term "deeming resolution" is not officially defined, nor is there any specific statute or rule authorizing such legislation. Instead, the use of a deeming resolution simply represents the House and Senate employing regular legislative procedures to deal with the issue on an ad hoc basis.

The form and content of a deeming resolution is not prescribed, so it may be shaped to meet the particular needs at hand. For example, the House and Senate have used simple resolutions as the legislative vehicle in the past, but a deeming resolution may be incorporated into a bill, such as an annual appropriations act, as a single provision. At a minimum, deeming resolutions provide new spending allocations to the Appropriations Committees, but they also may set new aggregate budget levels, provide revised spending allocations to other House and Senate committees, or provide for other related purposes.

[34] http://www.congress.gov/erp/rl/pdf/RL33122.pdf
[35] For more information on this topic, see CRS Report RL31443, *The "Deeming Resolution": A Budget Enforcement Tool*, by Robert Keith.

The “Gephardt Rule”

Excerpt from CRS Report: RL31913
Updated April 26, 2007

“Developing Debt-Limit Legislation: The House's 'Gephardt Rule'” (p. 1-4)
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The amount of money the federal government is allowed to borrow generally is subject to a statutory limit, which is set forth as a dollar limitation in 31 U.S.C. 3101(b). From time to time, Congress and the President enact legislation adjusting the limit.[36] Legislation adjusting the debt limit takes the form of an amendment to 31 U.S.C. 3101(b), usually striking the current dollar limitation and inserting a new one.

The House may develop debt-limit legislation under House Rule XXVII, commonly referred to as the Gephardt rule, named after its author, former Representative Richard Gephardt. The rule, which first applied in calendar year 1980, provides for the automatic engrossment and transmittal to the Senate of a joint resolution changing the public debt limit, upon the adoption by Congress of the budget resolution, thereby avoiding a separate vote in the House on the public debt-limit legislation. The Senate has no comparable procedure; if it chooses to consider a House-passed joint resolution, it does so under the regular legislative process.

The House also may develop and consider debt-limit legislation without resorting to the Gephardt rule, either as freestanding legislation, as part of another measure, or as part of a budget reconciliation bill.[37] Regardless of the process by which debt-limit legislation is developed, the House Ways and Means Committee maintains exclusive jurisdiction over debt-limit legislation. (In the Senate, the Finance Committee has exclusive jurisdiction over debt-limit legislation.)

This report describes the legislative history of the Gephardt rule, explains its current features, and reviews its implementation from its inception through the present.

Legislative History of the Gephardt Rule

The Gephardt rule, initially codified as Rule XLIX of the Standing Rules of the House of Representatives, was established by P.L. 96-78 (93 Stat. 589-591), an act to provide for a temporary increase in the public debt limit. The House adopted the legislation (H.R. 5369) by a vote of 219-198 on September 26, 1979.[38]

During consideration of the measure, Representative Gephardt explained that the purpose of the new House rule was to place the consideration of the public debt limit within the context of the overall budget policies contained in the annual budget resolution. In addition, it was intended to reduce the amount of time spent and the number of votes in the House and in committees on the issue of raising the public debt limit.

[36] For more information on the debt limit, see CRS Report RL31967, *The Debt Limit: The* Ongoing Need for Increases, by Philip D. Winters.
[37] For more information on these alternative procedures, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.
[38] For the consideration in the House, see *Congressional Record*, vol. 125 (Sept. 26, 1979), pp. 26337-26350. The Senate passed H.R. 5369 by a vote of 49-29 on Sept..r 28, 1979. For the consideration in the Senate, see *Congressional Record*, vol. 125 (Sept. 28, 1979), pp. 26669-26691. The President signed the legislation into law on Sept. 29, 1979.

One of the aggregate figures required to be included in the annual budget resolution is the appropriate level of the public debt. As the budget resolution has evolved over time from a single-year time frame to a multi-year time frame, the budget resolution has gone from including a debt-limit level for only one fiscal year to including debt-limit levels for each fiscal year over a multi-year period. Because a budget resolution does not become law, it is necessary to enact legislation in order to implement budget resolution policies regarding debt-limit adjustments. The Gephardt rule enables the House to combine the finalization of the budget resolution and the initiation of debt-limit legislation into a single step.

Representative Gephardt stated that the new automatic engrossment process:

> **puts the consideration of the appropriate level for the debt ceiling where it legitimately and logically belongs. That is in the context of when we vote for the spending that creates the need to change the debt ceiling.**[39]

In its original form, the rule required the engrossment of a joint resolution changing the temporary public debt limit. In 1983, the existing, separate temporary and permanent statutory limits on the public debt were combined into one permanent statutory limit (P.L. 98-34). Subsequently, the House amended the Gephardt rule to reflect this change by agreeing to H.Res. 241 (98th Congress) by voice vote on June 23, 1983.[40] Under the modified rule, the automatically engrossed joint resolution would contain a change to the permanent statutory limit. In addition to this modification,

> **The rules change also provided that where a budget resolution contains more than one public debt limit figure (for the current and the next fiscal year), only one joint resolution be engrossed, containing the debt limit figure for the current fiscal year with a time limitation, and the debt limit figure for the following fiscal year as the permanent limit.**[41]

During consideration of H.Res. 241, Representative Butler C. Derrick explained the limitation of a single joint resolution by stating that:

> **The Committee on Rules ... believes that it is unnecessary and confusing to have ... a single concurrent resolution on the budget trigger the engrossment and passage of two separate joint resolutions to increase or decrease the public debt [limit].**[42]

At the beginning of the 106th Congress, the House recodified the rule as House Rule XXIII. Certain language was deleted and modified from the existing rule but the revisions were intended to continue the automatic engrossment process "without substantive change."[43]

The House repealed the rule at the beginning of the 107th Congress.[44] On the opening day of the 108th Congress, the House reinstated this automatic engrossing process as a new rule, Rule XXVII.[45] The current rule contains the exact language as Rule XXIII of the 106th Congress.

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[39] *Congressional Record*, vol. 125 (Sept. 26, 1979), p. 26342.

[40] See *Congressional Record*, vol. 129 (June 23, 1983), pp. 17162-17164.

[41] U.S. Congress, Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Sixth Congress, 105th Cong., 2nd sess., H.Doc. 105-358 (Washington: GPO, 1999), p. 848.

[42] *Congressional Record*, vol. 129 (June 23, 1983), p. 17163.

[43] See *Congressional Record*, daily edition, vol. 145 (Jan. 6, 1999), pp. H175-H177; or U.S. Congress, House Committee on Rules, *The Recodification of the Rules of the House of Representatives*, committee print, 106th Cong., 1st sess. (Washington: GPO, 1999), pp. 172-174.

[44] It was repealed by H.Res. 5, adopted on January 3, 2001. See *Congressional Record*, daily edition, vol. 147 (Jan. 3, 2001), pp. H6-H11.

[45] Section 2(t) of H.Res. 5, which was agreed to by the House on Jan. 7, 2003. See *Congressional Record*, daily edition, vol. 149 (Jan. 7, 2003), pp. H7-H20.

Current Features of the Gephardt Rule

House Rule XXVII requires that the House clerk automatically engross and transmit to the Senate, upon the adoption of the budget resolution, a joint resolution changing the public debt limit to the level specified in the budget resolution. The rule stipulates that the joint resolution is deemed to have passed the House by the same vote as the conference report on the budget resolution.

Under clause 2 of the current rule:

> **If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.**

Further, clause 3(a) of Rule XXVII requires the House Budget Committee and the conference committee on the budget resolution to issue a clear statement regarding the impact of the automatically engrossed joint resolution on the public debt.[46] Specifically, clause 3(a) states:

> **The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.**

[46] For the most recent example of such a statement, see U.S. Congress, Committee on Conference, *Concurrent Resolution on the Budget — Fiscal Year 2006*, conference report to accompany H.Con.Res. 95, 109th Cong., 1st sess., H.Rept. 109-62 (Washington: GPO, 2005), pp. 90-91.

Crosswalk

"The annual budget resolution sets forth total spending and revenue levels for at least five fiscal years. The spending amounts are allocated, or "crosswalked," to the House and Senate committees having jurisdiction over discretionary spending (the Appropriations Committees) and direct spending (the legislative committees). The committee allocations provide Congress with one means of enforcing the spending levels of a budget resolution after it has been adopted." [47]

[47] Bill Heniff Jr. "Allocations and Subdivisions in the Congressional Budget Process," CRS Report: RS20144, August 29, 2003, p.1. http://www.congress.gov/erp/rs/pdf/RS20144.pdf.

Budget Resolution Enforcement: Sections 302 and 311

Excerpt from CRS Report: RL33122
Updated October 19, 2005

"Congressional Budget Resolutions: Revisions and Adjustments" (page 2)
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Enforcement of the budget resolution relies primarily upon points of order and reconciliation procedures. Point-of-order provisions contained in the 1974 act, which sometimes are supplemented by point-of-order provisions carried in annual budget resolutions, allow any Member in either chamber to prevent the consideration of legislation that would violate budget resolution policies.[48] Of course, points of order are not self-enforcing and may be waived with a sufficient majority, thereby allowing legislation in violation of budget resolution policies to be considered. In the Senate, most of the points of order pertaining to budget enforcement require the affirmative vote of three-fifths of the membership (60 votes, if no seats are vacant) in order to be waived.

With regard to the substantive enforcement of the budget resolution (i.e., enforcement of budgetary levels), the major points of order under the 1974 act are found in Sections 311 and 302, which deal with the enforcement of budget aggregates and committee spending allocations, respectively. House and Senate rules and practices differ somewhat with regard to these two points of order.

Section 311(a) generally bars the consideration of any spending measure that would violate the aggregate budget authority and outlays levels for the first fiscal year covered by the budget resolution, and any revenue measure that would violate the aggregate revenue level for the first fiscal year or the sum of all fiscal years covered by the budget resolution.

Section 302(a) generally requires that the aggregate amounts of spending recommended in the annual budget resolution be allocated by committee; the House and Senate Appropriations Committees receive an allocation for only one fiscal year, but the remaining House and Senate committees receive allocations for all of the years covered by the budget resolution. Section 302(b) requires the House and Senate Appropriations Committees to subdivide their allocations by subcommittee.[49] Section 302(f) generally bars the consideration of any spending measure that would violate the committee spending allocations made under Section 302(a) or the Appropriations Committees' suballocations of spending made under Section 302(b). In view of the different time frames for making committee spending allocations, the spending levels are enforceable for one year in the case of the Appropriations Committees but are enforceable for a multiyear period in the case of the other House and Senate committees.

[48] For a listing of the points of order, see CRS Report 97-865, *Points of Order in the* Congressional Budget Process, by James V. Saturno.

[49] The spending allocations to committees usually are included in the joint explanatory statement on the budget resolution; the spending suballocations made by the Appropriations Committees are set forth in House or Senate reports, as appropriate.

Reconciliation

Introduction

Excerpt from CRS Report: RL34015
Updated June 4, 2007

"Congressional Budget Actions in 2007" (page 13)
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Congress may implement changes to existing law related to direct spending, revenues, or the debt limit through the reconciliation process, under Section 310 of the Budget Act.[50] The reconciliation process has two stages. First, Congress includes reconciliation directives in a budget resolution directing one or more committees in each chamber to recommend changes in statute to achieve the levels of direct spending, revenues, debt limit, or a combination thereof, agreed to in the budget resolution.[51]

Second, each instructed committee develops legislative recommendations to meet its reconciliation directives and reports its legislative recommendations to its respective chamber directly or transmits such recommendations to its respective budget committee. Section 310(b) of the Budget Act specifies two options for the submission of legislative recommendations to comply with reconciliation directives: (1) if one committee is instructed, the committee reports its legislative recommendations to its parent chamber directly; or (2) if two or more committees are instructed, the committees submit their legislative recommendations to their respective Budget Committee. In the latter case, the legislative language recommended by committees is packaged "without any substantive revision" into one or more budget reconciliation bills, as set forth in the budget resolution, by the House and Senate Budget Committees.

Once the reconciliation legislation is reported in the House or Senate, consideration is governed by special procedures. These procedures serve to limit what may be included in reconciliation legislation, prohibit certain amendments, and encourage its completion in a timely fashion. In the House, as with the budget resolution, reconciliation legislation usually is considered under a special rule, establishing the time allotted for debate and what amendments will be in order. In the Senate, debate on a budget reconciliation bill, and on all amendments, debatable motions, and appeals, is limited to not more than 20 hours. After the 20 hours of debate has been reached, consideration of amendments, motions, and appeals may continue, but without debate.

In both chambers, the Budget Act requires that amendments to reconciliation legislation be germane and not increase the deficit. Also, the Budget Act prohibits the consideration of reconciliation legislation, or any amendment to a reconciliation bill, recommending changes to the Social Security program. Finally, in the Senate, Section 313 of the Budget Act, commonly referred to as the Byrd rule, prohibits extraneous matter in a reconciliation bill.

[50] For a full discussion of the reconciliation process, see CRS Report RL33030, *The Budget* Reconciliation Process: House and Senate Procedures, by Robert Keith and Bill Heniff Jr.

[51] At the beginning of the 110th Congress, the House adopted a new rule (clause 7 of rule XXI) that prohibits the consideration of a budget resolution containing reconciliation directives that would have the net effect of increasing the deficit or reducing the surplus. In the Senate, Section 202 of S.Con.Res. 21, the FY2008 budget resolution, agreed to on May 17, prohibits the consideration of a reconciliation measure that would increase the deficit or reduce the surplus.

The "Byrd Rule"

Excerpt from CRS Report: RL30862[52]
Updated April 7, 2005

"The Budget Reconciliation Process: The Senate's 'Byrd Rule'" (p. 1-7)
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Summary

Reconciliation is a procedure under the Congressional Budget Act of 1974 by which Congress implements budget resolution policies affecting mainly permanent spending and revenue programs. The principal focus in the reconciliation process has been deficit reduction, but in recent years reconciliation has encompassed revenue reduction generally and spending increases in selected program areas. Although reconciliation is an optional procedure, it has been used most years since its first use in 1980 (16 reconciliation bills were enacted into law and three were vetoed).

During the first several years' experience with reconciliation, the legislation contained many provisions that were extraneous to the purpose of implementing budget resolution policies. The reconciliation submissions of committees included such things as provisions that had no budgetary effect, that increased spending or reduced revenues when the reconciliation instructions called for reduced spending or increased revenues, or that violated another committee's jurisdiction.

In 1985 and 1986, the Senate adopted the Byrd rule (named after its principal sponsor, Senator Robert C. Byrd) on a temporary basis as a means of curbing these practices. The Byrd rule has been extended and modified several times over the years. In 1990, the Byrd rule was incorporated into the Congressional Budget Act of 1974 as Section 313 and made permanent (2 U.S.C. 644).

A Senator opposed to the inclusion of extraneous matter in reconciliation legislation may offer an amendment (or a motion to recommit the measure with instructions) that strikes such provisions from the legislation, or, under the Byrd rule, a Senator may raise a point of order against such matter. In general, a point of order authorized under the Byrd rule may be raised in order to strike extraneous matter already in the bill as reported or discharged (or in the conference report), or to prevent the incorporation of extraneous matter through the adoption of amendments or motions. A motion to waive the Byrd rule, or to sustain an appeal of the ruling of the chair on a point of order raised under the Byrd rule, requires the affirmative vote of three-fifths of the membership (60 Senators if no seats are vacant).

The Byrd rule provides six definitions of what constitutes extraneous matter for purposes of the rule (and several exceptions thereto), but the term is generally described as covering provisions unrelated to achieving the goals of the reconciliation instructions.

The Byrd rule has been applied to 19 reconciliation measures considered by the Senate from 1985 through 2004. In 42 of the 55 actions involving the Byrd rule, opponents were able to strike extraneous matter from legislation (18 cases) or bar the consideration of extraneous amendments (24 cases) by raising points of order. Nine of 41 motions to waive the Byrd rule, in order to retain or add extraneous matter, were successful. The Byrd rule has been used only four times during consideration of a conference report on a reconciliation measure (twice in 1993, once in 1995, and once in 1997). This report will be updated as developments warrant.

[52] http://www.congress.gov/erp/rl/pdf/RL30862.pdf

Introduction

Reconciliation is a process established under Section 310 of the Congressional Budget Act of 1974 (P.L. 93-344), as amended. The purpose of reconciliation is to change substantive law so that revenue and mandatory spending levels are brought into line with budget resolution policies. Reconciliation generally has been used to reduce the deficit through spending reductions or revenue increases, or a combination of the two. In recent years, however, the reconciliation process also has encompassed revenue reduction generally and spending increases in selected program areas.

Reconciliation is a two-step process. Under the first step, reconciliation instructions are included in the budget resolution, directing one or more committees in each House to develop legislation that changes spending or revenues (or both) by the amounts specified in the budget resolution. If more than one committee in each House is given instructions, each instructed committee submits reconciliation legislation to its respective Budget Committee, which incorporates all submissions, without any substantive revision, into a single, omnibus budget reconciliation measure. Reconciliation procedures during a session usually have applied to multiple committees and involved omnibus legislation.

Under the second step, the omnibus budget reconciliation measure is considered in the House and Senate under expedited procedures (for example, debate time in the Senate on a reconciliation measure is limited to 20 hours and amendments must be germane). The process culminates with enactment of the measure, thus putting the policies of the budget resolution into effect.

Reconciliation, which was first used by the House and Senate in 1980, is an optional procedure, but it has been used in most years. Over the 25-year period from 1980-2004, 16 reconciliation bills were enacted into law and three were vetoed.

During the first several years' experience with reconciliation, the legislation contained many provisions that were extraneous to the purpose of reducing the deficit. The reconciliation submissions of committees included such things as provisions that had no budgetary effect, that increased spending or reduced revenues, or that violated another committee's jurisdiction.

In 1985 and 1986, the Senate adopted the Byrd rule (named after its principal sponsor, Senator Robert C. Byrd) as a means of curbing these practices. Initially, the rule consisted of two components, involving a provision in a reconciliation act and a Senate resolution. The Byrd rule has been modified several times over the years.

The purpose of this report is to briefly recount the legislative history of the Byrd rule, summarize its current features, and describe its implementation from its inception through the present.

Legislative History of the Byrd Rule

During the first five years that the Byrd rule was in effect, from late 1985 until late 1990, it consisted of two separate components -- (1) a provision in statute applying to initial Senate consideration of reconciliation measures, and (2) a Senate resolution extending application of portions of the statutory provision to conference reports and amendments between the two Houses. Several modifications were made to the Byrd rule in 1986 and 1987, including extending its expiration date from January 2, 1987, to January 2, 1988, and then to September 30, 1992, but the two separate components of the rule were preserved. In 1990, these components were merged together and made permanent when they were incorporated into the Congressional Budget Act (CBA) of 1974 as Section 313. There have been no further changes in the Byrd rule since 1990.

The Byrd rule originated on October 24, 1985, when Senator Robert C. Byrd, on behalf of himself and others, offered Amendment No. 878 (as modified) to S. 1730, the Consolidated Om-

nibus Budget Reconciliation Act (COBRA) of 1985.[53] The Senate adopted the amendment by a vote of 96-0.[54] In this form, the Byrd rule applied to initial Senate consideration of reconciliation measures.

Senator Byrd explained that the basic purposes of the amendment were to protect the effectiveness of the reconciliation process (by excluding extraneous matter that often provoked controversy without aiding deficit reduction efforts) and to preserve the deliberative character of the Senate (by excluding from consideration under expedited procedures legislative matters not central to deficit reduction that should be debated under regular procedures). He opened his remarks by stating:

> **. . . we are in the process now of seeing . . . the Pandora's box which has been opened to the abuse of the reconciliation process. That process was never meant to be used as it is being used. There are 122 items in the reconciliation bill that are extraneous. Henceforth, if the majority on a committee should wish to include in reconciliation recommendations to the Budget Committee any measure, no matter how controversial, it can be brought to the Senate under an ironclad built-in time agreement that limits debate, plus time on amendments and motions, to no more than 20 hours.**
>
> **It was never foreseen that the Budget Reform Act would be used in that way. So if the budget reform process is going to be preserved, and more importantly if we are going to preserve the deliberative process in this U.S. Senate -- which is the outstanding, unique element with respect to the U.S. Senate, action must be taken now to stop this abuse of the budget process.**[55]

Figure 1. Laws and Resolutions Establishing the Byrd Rule

P.L. 99-272, Consolidated Omnibus Budget Reconciliation Act of 1985, Section 2001 (100 Stat. 390-391), April 7, 1986.

S.Res. 286 (99th Congress, 1st Session), December 19, 1985.

S.Res. 509 (99th Congress, 2nd Session), October 16, 1986.

P.L. 99-509, Omnibus Budget Reconciliation Act of 1986, Section 7006 (100 Stat. 1949-1950), October 21, 1986.

P.L. 100-119, Increasing the Statutory Limit on the Public Debt, Section 205 (101 Stat. 784-785), September 29, 1987.

P.L. 101-508, Omnibus Budget Reconciliation Act of 1990, Section 13214 (104 Stat. 1388-621 through 1388-623), November 5, 1990.

P.L. 105-33, Balanced Budget Act of 1997, Section 10113(b)(1) (111 Stat. 688), August 5, 1997.

The Byrd amendment was included in modified form in COBRA of 1985 (P.L. 99-272), which was not enacted into law until April 7, 1986, as Section 20001 (100 Stat. 390-391). The Byrd rule, in this form, thus became effective on April 7. As originally framed, the Byrd rule was set to expire on January 2, 1987.

Over the years, the Senate has expanded and revised the Byrd rule through the adoption of two resolutions and the inclusion of provisions in four laws. **Figure 1** lists the laws and resolutions that have established and revised the Byrd rule.

On December 19, 1985, the Senate adopted by voice vote a resolution (S.Res. 286), sponsored by Senator Alan Simpson and others, that extended the application of portions of the statutory provision to conference reports and amendments between the two Houses. Because the enactment of COBRA of 1985 was delayed until early 1986, the portion of the Byrd rule dealing with conference reports became

[53] For a detailed legislative history of the Byrd rule, see the following print of the Senate Budget Committee: *Budget Process Law Annotated — 1993 Edition*, by William G. Dauster, 103rd Cong., 1st sess., S. Prt. 103-49, October 1993, notes on pp. 229-246.

[54] The Senate's consideration of and vote on the amendment occurred on pp. S14032-S14038 of the *Congressional Record* (daily ed.) of Oct. 24, 1985.

[55] See the remarks of Senator Robert C. Byrd on p. S14032 of the *Congressional Record* (daily ed.), Oct. 24, 1985.

effective first. The provisions of S.Res. 286 were set to expire on the same date as the provision in COBRA of 1985 (January 2, 1987).

In the following year, the Senate was involved in two actions affecting the Byrd rule. First, the Senate adopted S.Res. 509 by voice vote on October 16, 1986. The measure, offered by Senator Alan Simpson and others, modified S.Res. 286 in a technical fashion. Second, the Omnibus Budget Reconciliation Act of 1986 was enacted into law, as P.L. 99-509, on October 21, 1986. Section 7006 of the law made several minor changes in the Byrd rule and extended its expiration date by one year -- until January 2, 1988.

Further changes in the Byrd rule were made in 1987. These changes were included in a measure increasing the statutory limit on the public debt, modifying procedures under the Balanced Budget and Emergency Deficit Control Act of 1985, and making other budget process changes (P.L. 100-119, signed into law on September 29; see Title II (Budget Process Reform)). Section 205 of the law added an item to the list of definitions of extraneous matter in the Byrd rule and extended its expiration until September 30, 1992.

In 1990, Congress and the President agreed to further modifications of the budget process by enacting the Budget Enforcement Act (BEA) of 1990 (Title XIII of the Omnibus Budget Reconciliation Act of 1990). Section 13214 of the law made significant revisions to the Byrd rule and incorporated it (as permanent law) into the CBA of 1974 as Section 313 (2 U.S.C. 644).

Finally, the Budget Enforcement Act of 1997 (Title X of the Balanced Budget Act of 1997) made minor technical changes in Section 313 of the CBA of 1974 to correct drafting problems with the BEA of 1990.

Current Features of the Byrd Rule

A Senator opposed to the inclusion of extraneous matter in reconciliation legislation has two principal options for dealing with the problem. First, a Senator may offer an amendment (or a motion to recommit the measure with instructions) that strikes such provisions from the legislation. Second, under the Byrd rule, a Senator may raise a point of order against extraneous matter.

The Byrd rule is a relatively complex rule[56] that applies to two types of reconciliation measures considered pursuant to Section 310 of the CBA of 1974 -- reconciliation bills and reconciliation resolutions.[57] (A reconciliation resolution could be used to make changes in legislation that had passed the House and Senate but had not yet been enrolled and sent to the President. The practice of the House and Senate has been to consider only reconciliation bills.)

In general, a point of order authorized under the Byrd rule may be raised in order to strike extraneous matter already in the bill as reported or discharged (or in the conference report), or to prevent the incorporation of extraneous matter through the adoption of amendments or motions. A point of order may be raised against a single provision or two or more provisions (as designated by title or section number, or by page and line number), and may be raised against a single

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[56] Some of the complexities of the Byrd rule are examined in: (1) *Riddick's Senate Procedure* (S.Doc. 101-28, 101st Cong., 2nd sess., 1992), by Floyd M. Riddick and Alan S. Frumin, pp. 624-626; and (2) *Budget Process Law Annotated — 1993 Edition*, by William G. Dauster, op. cit., beginning on p. 198.

[57] Part of the Byrd rule, Section 313(a), also applies to reconciliation measures considered pursuant to Section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985. This section, which has never been invoked, provides for the consideration of reconciliation legislation in the fall in order to achieve deficit reductions that would obviate the need for an expected sequester under the pay-as-you-go (PAYGO) requirement (or, previously, the deficit targets). The PAYGO requirement effectively expired at the end of the 107th Congress (see CRS Report RS21378, *Termination of the "Pay-As-You-Go" (PAYGO) Requirement for FY2003 and Later Years*, by Robert Keith.) All of the reconciliation measures considered by the Senate thus far have originated pursuant to Section 310 of the CBA of 1974.

amendment or two or more amendments. The chair may sustain a point of order as to all of the provisions (or amendments) or only some of them.

Once material has been stricken from reconciliation legislation under the Byrd rule, it may not be offered again as an amendment.

A motion to waive the Byrd rule, or to sustain an appeal of the ruling of the chair on a point of order raised under the Byrd rule, requires the affirmative vote of three-fifths of the membership (60 Senators if no seats are vacant).[58] A single waiver motion can: (1) apply to the Byrd rule as well as other provisions of the Congressional Budget Act; (2) involve multiple as well as single provisions or amendments; (3) extend (for specified language) through consideration of the conference report as well as initial consideration of the measure or amendment; and (4) be made prior to the raising of a point of order, thus making the point of order moot.

When a reconciliation measure, or a conference report thereon, is considered, the Senate Budget Committee must submit for the record a list of potentially extraneous matter included therein.[59] This list is advisory, however, and does not bind the chair in ruling on points of order.

Determinations of budgetary levels for purposes of enforcing the Byrd rule are made by the Senate Budget Committee.

Definitions of Extraneous Matter

Subsection (b)(1) of the Byrd rule provides definitions of what constitutes extraneous matter for purposes of the rule. The Senate Budget Committee, in its report on the budget resolution for fiscal year 1994, noted:

> **'Extraneous' is a term of art. Broadly speaking, the rule prohibits inclusion in reconciliation of matter unrelated to the deficit reduction goals of the reconciliation process.**[60]

A provision is considered to be extraneous if it falls under one or more of the following six definitions:

(1) it does not produce a change in outlays or revenues;
(2) it produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
(3) it is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
(4) it produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision;
(5) it would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and
(6) it recommends changes in Social Security.

The last definition complements a ban in Section 310(g) of the CBA of 1974 against considering any reconciliation legislation that contains recommendations pertaining to the Social Se-

[58] In the Senate, many points of order under the CBA of 1974 require a three-fifths vote of the membership to waive (or to sustain an appeal of the ruling of the chair). Most of these three-fifths waiver requirements are temporary, but in the case of the Byrd rule it is permanent. Section 503 of the FY2004 budget resolution (H.Con.Res. 95, 108th Cong.), adopted on Apr. 11, 2003, extended the expiration date for the temporary requirements to Sept. 30, 2008.
[59] For an example of such a list, see the remarks of Senator Pete Domenici regarding the conference report on the Balanced Budget Act of 1997 in the *Congressional Record* (daily ed.) of July 31, 1997, at pp. S8406-S8408.
[60] See the report of the Senate Budget Committee to accompany S.Con.Res. 18, Concurrent Resolution on the Budget, FY1994 (S.Rept. 103-19, Mar. 12, 1993), p. 49.

curity. For purposes of these provisions, Social Security is considered to include the Old-Age, Survivors, and Disability Insurance (OASDI) program established under Title II of the Social Security Act; it does not include Medicare or other programs established as part of that act.

Exceptions to the Definition of Extraneous Matter

Subsection (b)(2) of the Byrd rule provides that a Senate-originated provision that does not produce a change in outlays or revenues shall not be considered extraneous if the chairman and ranking minority members of the Budget Committee and the committee reporting the provision certify that --

- the provision mitigates direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; or

- the provision will (or is likely to) reduce outlays or increase revenues: (1) in one or more fiscal years beyond those covered by the reconciliation measure; (2) on the basis of new regulations, court rulings on pending legislation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision; or (3) but reliable estimates cannot be made due to insufficient data.

Additionally, under subsection (b)(1)(A), a provision that does not change outlays or revenues in the net, but which includes outlay decreases or revenue increases that exactly offset outlay increases or revenue decreases, is not considered to be extraneous.

Impoundments

Excerpt from CRS Report: RL33635
Updated November 21, 2007

"Item Veto and Expanded Impoundment Proposals: History and Current Status" (pages 1-4)
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Brief History of Impoundment

Impoundment includes any executive action to withhold or delay the spending of appropriated funds. One useful distinction among impoundment actions, which received statutory recognition in the 1974 Impoundment Control Act, focuses on duration: whether the President's intent is permanent cancellation of the funds in question (rescission) or merely a temporary delay in availability (deferral).

Another useful contrast distinguishes presidential deferrals for routine administrative reasons from deferrals for policy purposes. Virtually all Presidents have impounded funds in a routine manner as an exercise of executive discretion to accomplish efficiency in management. The creation of budgetary reserves as a part of the apportionment process required by the Antideficiency Acts (31 U.S.C. 1511-1519) provided formal structure for such routine impoundments, which originated with an administrative regulation issued in 1921 by the Bureau of the Budget and then received a statutory base in 1950.[61] Impoundments for policy reasons, such as opposition to a particular program or a general desire to reduce spending, whether short-term or permanent, have proved far more controversial.

Controversies Increase

Instances of presidential impoundment date back to the early nineteenth century, but Presidents typically sought accommodation rather than confrontation with Congress.[62] In the 1950s and 1960s, disputes over the impoundment authority resulted from the refusal of successive Presidents to fund certain weapons systems to the full extent authorized by Congress. These confrontations between the President and Congress revolved around the constitutional role of Commander-in-Chief and tended to focus on relatively narrow issues of weapons procurement. President Johnson made broader use of his power to impound by ordering the deferral of billions of dollars of spending during the Vietnam war in an effort to restrain inflationary pressures in the economy. While some impoundments during these periods were motivated by policy concerns, they typically involved temporary spending delays, with the President acting in consultation with congressional leaders, so that a protracted confrontation between the branches was avoided.

Conflict over the use of impoundments greatly increased during the Nixon Administration and eventually involved the courts as well as Congress and the President. In the 92nd and 93rd Congresses (1971-1974), the confrontation intensified as the President sought to employ the tool of impoundment to reorder national priorities and alter programs previously approved by Congress. Following President Nixon's reelection in 1972, the Administration announced major new impoundment actions affecting a variety of domestic programs. For example, a moratorium was imposed on subsidized housing programs, community development activities were suspended, and disaster assistance was reduced. Several farm programs were likewise targeted for elimina-

[61] See Budget and Accounting Procedures Act of 1950, P.L. 81-784, 64 Stat. 2317.

[62] For a history of presidential impoundment before 1974, see Louis Fisher, *Presidential Spending Power* (Princeton, NJ: Princeton University Press, 1975), pp. 147-201; and Ralph S. Abscal and John R. Kramer, "Presidential Impoundment Part I: Historical Genesis and Constitutional Framework," *Georgetown Law Journal*, vol. 62 (July 1974), pp. 1549-1618.

tion. Perhaps the most controversial of the Nixon impoundments involved the Clean Water Act funds. Court challenges eventually reached the Supreme Court, which in early 1975 decided the case on narrower grounds than the extent of the President's impoundment authority.[63]

Impoundment Control Act of 1974

During these impoundment conflicts of the Nixon years, Congress responded not only with ad hoc efforts to restore individual programs, but also with gradually more restrictive appropriations language. Arguably, the most authoritative response was the enactment of the Impoundment Control Act (ICA), Title X of the Congressional Budget and Impoundment Control Act of 1974.[64] As a result of a compromise in conference, the ICA differentiated deferrals, or temporary delays in funding availability, from rescissions, or permanent cancellations of designated budget authority, with different procedures for congressional review and control of the two types of impoundment.[65] The 1974 law also required the President to inform Congress of all proposed rescissions and deferrals and to submit specified information regarding each. The ICA further required the Comptroller General to oversee executive compliance with the law and to notify Congress if the President failed to report an impoundment or improperly classified an action.

The original language allowed a deferral to remain in effect for the period proposed by the President (not to exceed beyond the end of the fiscal year so as to become a de facto rescission) unless either the House or the Senate took action to disapprove it. Such a procedure, known as a one-house legislative veto, was found unconstitutional by the Supreme Court in *INS v. Chadha* (462 U.S. 919 (1983)). In May 1986 a federal district court ruled that the President's deferral authority under the ICA was inseverable from the one-house veto provision and hence was null; the lower court decision was affirmed on appeal in *City of New Haven v. United States* (809 F.2d 900 (D.C.C. 1987)).

In the case of a rescission, the ICA provided that the funds must be made available for obligation unless both houses of Congress take action to approve the rescission request within 45 days of "continuous session" (recesses of more than three days not counted). In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer. Congress may approve all or only a portion of the rescission request. Congress may also choose after the 45-day period to rescind funds previously requested for rescission by the President. Congress does rescind funds never proposed for rescission by the President, but such action is not subject to the ICA procedures.

The ICA establishes no procedures for congressional disapproval of a rescission request during the 45-day period. However, some administrations have voluntarily followed a policy of releasing funds before the expiration of the review period, if either the House or the Senate authoritatively indicates that it does not intend to approve the rescission.

In the fall of 1987, as a component of legislation to raise the limit on the public debt (P.L. 100-119), Congress enacted several budget process reforms. Section 207 prohibited the practice, sometimes used by Presidents when Congress failed to act on a rescission proposal within the allotted period, of submitting a new rescission proposal covering identical or very similar matter. By using such resubmissions, the President might continue to tie up funds even though Congress, by its inaction, had already rejected virtually the same proposal. The prohibition against

[63] *Train* v. *City of New York*, 420 U.S. 35 (1975). For further discussion regarding the role of the courts in the impoundment disputes during the Nixon Administration, see James P. Pfiffner, *The President, the Budget, and Congress: Impoundment and the 1974 Budget Act* (Boulder, CO: Westview Press, 1979), pp. 77-108.

[64] P.L. 93-344, 88 Stat. 332. The ICA became effective upon signing of the law on July 12, 1974. For further discussion of the impoundment conflicts and the legislative history of the 1974 law, see Allen Schick, *Congress and Money* (Washington, DC: The Urban Institute, 1980), pp. 17-81.

[65] According to one account, "Written by the staff members who put together the final version of budget reform, Title X was a novel combination of the House and Senate versions of the impoundment control bills." See Joel Havemann, *Congress and the Budget* (Bloomington, IN: Indiana University Press, 1978), pp. 178-179.

such seriatim rescission proposals contained in the 1987 law applies for the duration of the appropriation, so that it may remain in effect for two or more fiscal years. Section 206 of P.L. 100-119 served to codify the decision in the *New Haven* case, allowing deferrals to provide for contingencies, to achieve savings made possible through changes in requirements or efficiency of operations, or as provided in statute. The ICA as amended no longer sanctions policy deferrals.[66]

[66] "Conference Report on House Joint. Resolution 324," (H.Rept. 100-313), *Congressional Record*, vol. 133, Sept. 21, 1987, p. 24655.

Rescissions

Excerpt from CRS Report: 97-684[67]
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"The Congressional Appropriations Process: An Introduction" (p. 26-27)
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Rescissions cancel previously enacted budget authority. To continue the earlier example, after Congress enacted the $1.6 billion to construct the submarine, it could enact legislation canceling the budget authority prior to its obligation. Rescissions are an expression of changed or differing priorities. They may also be used to offset increases in budget authority for other activities.

The President may recommend rescissions to Congress, but it is up to Congress to act on them. Under Title X of the Congressional Budget Act,[68] Congress must enact a bill approving the President's rescissions within 45 days of *continuous session of Congress* or the budget authority must be spent.

> **In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer.[69]**

In response to the President's recommendation, Congress may decide not to approve the amount specified by the President, approve the total amount, or approve a different amount. In 2005, the President requested a rescission of $106 million from the Department of Defense (DOD), Operations and Maintenance, Defense-Wide account and $48.6 million from DOD, Research, Development, Test, and Evaluation, Army account. Congress provided a rescission of $80 million from the first account in the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006.[70] The act did not provide a rescission from the second account.

Congress may also initiate rescissions. In the above act, Congress also initiated a rescission of $10 million from the Department of State, Diplomatic and Consular Programs account.

As budget authority providing the funding must be enacted into law, so, too, a rescission canceling the budget authority must be enacted into law. Rescissions can be included in either separate rescission measures or any of the three types of appropriations measures.

[67] http://www.congress.gov/erp/rl/pdf/97-684.pdf
[68] Title X is referred to as the Impoundment Control Act.
[69] CRS Report RL33635, *Item Veto and Expanded Impoundment Proposals: Legislative History and Current Status*, by Virginia A. McMurtry.
[70] P.L. 109-148.