Congressional Research Service
Informing the legislative debate since 1914

Deeming Resolutions: Budget Enforcement in the Absence of a Budget Resolution

Updated October 29, 2018

Congressional Research Service
https://crsreports.congress.gov
R44296

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The budget resolution reflects an agreement between the House and Senate on a budgetary plan for the upcoming fiscal year. Once agreed to by both chambers in the exact same form, the budget resolution creates parameters that may be enforced by (1) points of order and (2) using the budget reconciliation process.

When the House and Senate do not reach final agreement on this plan, it may be more difficult for Congress to reach agreement on subsequent budgetary legislation, both within each chamber and between the chambers.

In the absence of agreement on a budget resolution, Congress may employ alternative legislative tools to serve as a substitute for a budget resolution. These substitutes are typically referred to as "deeming resolutions," because they are deemed to serve in place of an annual budget resolution for the purposes of establishing enforceable budget levels for the upcoming fiscal year.

Since the creation of the budget resolution, there have been nine years in which Congress did not come to agreement on a budget resolution. In each of those years, one or both chambers employed at least one deeming resolution to serve as a substitute for a budget resolution.

While referred to as deeming resolutions, such mechanisms are not formally defined and have no specifically prescribed content. Instead, they simply represent the House and Senate, often separately, engaging legislative procedures to deal with enforcement issues on an ad hoc basis. As described below, the mechanisms can vary significantly in content and timing. This report covers the use of deeming resolutions pertaining to fiscal years for which the House and Senate did not agree on a budget resolution.

While the House and Senate have not yet adopted a budget resolution for FY2019, they may still do so. In the meantime, the Bipartisan Budget Act of 2018 (P.L. 115-123) included provisions directing the Senate and House Budget Committee chairs to file in the *Congressional Record* levels that would then become enforceable as if they had been included in a budget resolution for FY2019. The Budget Committee chairmen were directed to file such levels between April 15, 2018, and May 15, 2018. Senate Budget Committee Chairman Enzi filed such levels on May 7, 2018, and House Budget Committee Chairman Womack filed such levels on May 10, 2018. This does not preclude the Senate or House from considering and adopting a traditional budget resolution for FY2019, even into calendar year 2019. For more information, see CRS Report R45157, *The Bipartisan Budget Act of 2018 and an FY2019 Budget Resolution*, by Megan S. Lynch.

Contents

What Is the Budget Resolution and How Is It Enforced? ... 1
What Complications Arise When the House and Senate Do Not Reach Agreement on a Budget Resolution? ... 3
What Can Be Used for Budget Enforcement in the Absence of a Budget Resolution? ... 4
In Which Years Did Congress Rely on Deeming Resolutions in the Absence of Agreement on a Budget Resolution? ... 4
In What Ways Have Deeming Resolutions Varied? ... 7
What Types of Budgetary Enforcement Exist Outside of the Budget Resolution? ... 16
Budget Enforcement Through Points of Order ... 16
Budget Enforcement Through Statutory Means ... 17

Figures

Figure 1. Timing of Agreement on Deeming Resolutions ... 9

Tables

Table 1. Dates of Final Adoption of Budget Resolutions: FY1976-FY2019 ... 5
Table 2. Deeming Resolutions Pertaining to Those Fiscal Years for Which Congress Did Not Agree on a Budget Resolution ... 6
Table 3. Provisions Included in Deeming Resolutions Pertaining to Those Fiscal Years for Which Congress Did Not Agree on a Budget Resolution ... 11

Contacts

Author Information ... 18
Acknowledgments ... 18

What Is the Budget Resolution and How Is It Enforced?

The Congressional Budget Act of 1974 (hereinafter referred to as the Budget Act) created the budget resolution and specifies that it be adopted annually.[1] The budget resolution reflects an agreement between the House and Senate on a budgetary framework that is designed to establish parameters within which Congress will consider subsequent budgetary legislation.

The budget resolution does not become law; therefore no money is spent or collected as a result of its adoption. Instead, it is meant to assist Congress in considering an overall budget plan. Once agreed to by both chambers in the exact same form, the budget resolution creates parameters that may be enforced in two primary ways: (1) by points of order, and (2) by using the budget reconciliation process.

Enforcement Through Points of Order

Once the budget resolution has been agreed to by both chambers, certain levels contained in it are enforceable through points of order. This means that if legislation is being considered on the House or Senate floor that would violate certain levels contained in the budget resolution, a Member may raise a point of order against the consideration of that legislation. Points of order can be raised against bills, resolutions, amendments, or conference reports. If such a point of order is raised against legislation for violating levels in the budget resolution, the presiding officer makes a ruling on the point of order based on estimates provided by the relevant Budget Committee.[2]

Points of order are not self-enforcing, meaning that if no Member raises a point of order, a chamber may consider and pass legislation that would violate levels established in the budget resolution. In addition, either chamber may waive the point of order. The process for waiving points of order, and the number of Members required to waive points of order, varies by chamber. Generally, such points of order can be waived in the House by a simple majority of Members[3] and in the Senate by three-fifths of all Senators.[4]

The Budget Act requires that the budget resolution include the following budgetary levels for the upcoming fiscal year and at least four out years: total spending, total revenues, the surplus/deficit,

[1] Titles I-IX of P.L. 93-344, as amended; 2 U.S.C. 601-688.

[2] §312 of the Budget Act. While the Budget Act states that estimates used for determining points of order are to be provided by the Budget Committees, typically, those estimates are provided by the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT).

[3] In the House, most measures are considered in one of two ways, both of which routinely waive points of order. First, a measure may be considered under terms specified in a resolution (referred to as a special rule) reported from the House Rules Committee. Such resolutions often include language waiving points of order against the underlying legislation as well as certain specified amendments. A special rule requires for adoption a simple majority of those voting, assuming a quorum is present. The second common way that measures are considered in the House is under the suspension of the rules procedure. When measures are considered under this procedure, such points of order are automatically waived. Measures considered under this procedure require for passage a two-thirds vote of those voting, assuming a quorum is present.

[4] In the Senate, such points of order can be waived with the support of three-fifths of Senators duly chosen and sworn. In such a situation, a Senator may make a motion to waive the point of order either after one has been raised or before it has been raised (in anticipation of the point of order). The waiver motion may apply to one or more points of order, as specified by the Senator making the motion.

new spending for each major functional category, the public debt, and (in the Senate only) Social Security spending and revenue levels. The Budget Act also requires that the aggregate amounts of spending recommended in the budget resolution be allocated among committees.[5] The Budget Act provides that the House and Senate Appropriations Committees receive an allocation for only the upcoming fiscal year (referred to as the budget year), but the remaining House and Senate committees receive allocations for the entire period covered by the budget resolution. The Budget Act requires that the House and Senate Appropriations Committees subdivide their allocations by subcommittee and report these sub-allocations to their respective chambers.

While the Budget Act requires that the budget resolutions include the levels described above, it does not require that all of these levels be enforceable by points of order. (Some levels in the budget resolution are, therefore, included only for informational purposes.)

Budgetary levels that *are* enforceable include spending and revenue aggregates and committee spending allocations. The Budget Act prohibits the consideration of (1) any measure that would cause spending to exceed levels in the budget resolution,[6] or (2) any measure that would cause total revenue levels to fall below the levels in the budget resolution.[7] Likewise, the Budget Act prohibits the consideration of legislation that would violate the committee spending allocations.[8] (Similarly, once the Appropriations Committees report their sub-allocations to their respective chambers, the Budget Act bars the consideration of any spending measures that would cause those sub-allocations to be violated.)

Enforcement Through the Budget Reconciliation Process

While points of order can be effective in enforcing the budgetary goals outlined in the budget resolution, they can be raised against legislation only when it is pending on the House or Senate floor. This can be effective for legislation such as appropriations measures, which typically provide funding for one year and are therefore considered on the House and Senate floor annually. Points of order cannot, however, limit direct spending or revenue levels resulting from current law.

Often, for the budgetary levels in the budget resolution to be achieved, Congress must pass legislation to alter the levels of revenue and/or direct spending resulting from existing law. In this situation, Congress seeks to *reconcile* the levels of direct spending and revenue resulting from existing law with those budgetary levels expressed in the budget resolution. To assist in this process, the budget reconciliation process allows special consideration of legislation that would accomplish those budgetary levels expressed in the budget resolution.

If Congress intends to use the reconciliation process, reconciliation directives (also referred to as reconciliation instructions) must be included in the annual budget resolution. These directives

[5] These committee spending allocations are required to be included in the joint explanatory statement accompanying the conference report on the budget resolution. The report accompanying the budget resolution is also required to include other components (§301(e)(2) of the Budget Act).

[6] Specifically, in the Senate the Budget Act prohibits consideration of legislation that would cause new budget authority or outlays for the first fiscal year in the budget resolution to be exceeded. In the House, the Budget Act prohibits consideration of legislation that would cause new budget authority or outlays for the first fiscal year in the budget resolution to be exceeded. (§§311(a)(2) and 311(a)(1)).

[7] Specifically, the Budget Act prohibits consideration in the House and the Senate of legislation that would cause revenues to fall below the levels set forth in the budget resolution for the first fiscal year or for the total of all fiscal years covered in the budget resolution (§§311(a)(1) and 311(a)(2)).

[8] §302(f) of the Budget Act.

instruct individual committees to develop and report legislation that would change laws within their respective jurisdictions related to direct spending, revenue, or the debt limit. Once a specified committee develops legislation, the reconciliation directive may direct it to report the legislation for consideration in its chamber or submit it to the Budget Committee to be included in an omnibus reconciliation measure. Such reconciliation legislation is then eligible to be considered under special expedited procedures in both the House and Senate.[9]

What Complications Arise When the House and Senate Do Not Reach Agreement on a Budget Resolution?

The budget resolution reflects an agreement between the House and Senate on a budgetary plan for the upcoming fiscal year. When the House and Senate do not reach final agreement on this plan, the budget process for the upcoming fiscal year may become complicated. Without an agreement on budgetary parameters, it may be more difficult for Congress to reach agreement on subsequent budgetary legislation, both within each chamber and between the chambers.

If Congress agreed upon a budget resolution for the prior fiscal year, that resolution remains in effect and may provide some operative parameters, since a resolution includes multi-year enforceable levels.[10] The usefulness of such levels may be limited, however, due to altered economic conditions and technical factors, not to mention any changes in congressional budgetary goals.

Furthermore, since a committee allocation to the Appropriations Committee is made for only the upcoming fiscal year, the House and Senate cannot rely on a prior year's budget resolution. This means that there is no allocation of spending made to the Appropriations Committees and no formal basis for them to make the required spending sub-allocations.[11] Without such enforceable budgetary levels, the development and consideration of individual appropriations measures may encounter difficulties.

Without agreement on a budget resolution, Congress also may not use the budget reconciliation process. This means that any budgetary changes to revenue or mandatory spending may not be considered under the special expedited procedures provided by the budget reconciliation process.

Further, the Budget Act sought to require adoption of a budget resolution before Congress could consider budgetary legislation for the upcoming year. Under Section 303(a) of the Budget Act, the House and Senate generally may not consider spending, revenue, or debt limit legislation for a fiscal year until the budget resolution for that fiscal year has been adopted. The Budget Act

[9] For more information on the budget reconciliation process, see CRS Report R41186, *Reconciliation Directives: Components and Enforcement*, by Megan S. Lynch.

[10] In the event that a new Congress has begun, the prior year's budget resolution is still in effect in the Senate but not in the House. The House, however, often renews a prior year's budget resolution (or deeming resolution) as part of the opening-days rules package. See for example, Section 3(e) of H.Res. 5 (114th Congress).

[11] As described below, statutory limits on discretionary spending currently exist through FY2021 and may provide a basis for discretionary spending levels for defense and non-defense while they are in effect, but they generally do not provide enforceable limits on individual appropriations measures in a way comparable to committee sub-allocations. Section 302(a)(5) of the Budget Act authorizes the chairman of the House Budget Committee to issue a provisional spending allocation to the House Appropriations Committee consistent with the most recently agreed to budget resolution, although the House has often used deeming resolutions (described below) so that consideration of regular appropriations acts can proceed under more updated spending allocations.

provides for exceptions, however, and in addition allows the point of order to be waived in both chambers by a simple majority.

What Can Be Used for Budget Enforcement in the Absence of a Budget Resolution?

In the absence of a budget resolution, other budget enforcement mechanisms are available to Congress comprising two general categories. First, there are types of budget enforcement that are entirely separate from the budget resolution, such as chamber rules and statutory spending caps. These mechanisms remain in effect in the absence of a budget resolution and place restrictions on certain types of budgetary legislation. Such enforcement is briefly described below in the section titled "What Types of Budgetary Enforcement Exist Outside of the Budget Resolution?"

Second, in the absence of agreement on a budget resolution, Congress may employ alternative legislative tools to serve as a substitute for a budget resolution. When Congress has been late in reaching final agreement on a budget resolution, or has not reached agreement at all, it has relied on such substitutes. These substitutes are typically referred to as "deeming resolutions," because they are *deemed* to serve in place of an agreement between the two chambers on an annual budget resolution for the purposes of establishing enforceable budget levels for the upcoming fiscal year (or multiple fiscal years). Employing a deeming resolution, however, does not preclude Congress from subsequently agreeing to a budget resolution.

While referred to as deeming resolutions, such mechanisms are not formally defined and have no specifically prescribed content. Instead, they simply denote the House and Senate, often separately, engaging legislative procedures to deal with enforcement issues on an ad hoc basis. As described below, the mechanisms vary in form and function, but they always (1) include or reference certain budgetary levels (e.g., aggregate spending limits and committee spending allocations) and (2) contain language stipulating that such levels are to be enforceable by points of order as if they had been included in a budget resolution.[12]

In Which Years Did Congress Rely on Deeming Resolutions in the Absence of Agreement on a Budget Resolution?

As shown in **Table 1**, since the creation of the budget resolution, dates of adoption have varied, and there have been nine years in which Congress did not come to agreement on a budget resolution. As shown in **Table 2**, in each of those years, one or both chambers employed at least one deeming resolution to serve as a substitute for a budget resolution. It should be noted that **Table 2** includes only the deeming resolutions that pertain to the fiscal years for which Congress did not agree on a budget resolution. For example, for FY2017, the House and Senate ultimately agreed to a budget resolution, and so data pertaining to FY2017 is not included in this report even

[12] Because a deeming resolution typically provides enforcement for only one chamber, it could not trigger the budget reconciliation process allowing expedited consideration of reconciliation legislation in both chambers of Congress.

though the Senate utilized a deeming resolution before agreement on a budget resolution was reached.[13]

Table 1. Dates of Final Adoption of Budget Resolutions: FY1976-FY2019

Fiscal Year	Date Adopted	Fiscal Year	Date Adopted
1976	05-14-1975	1999	[none]
1977	05-13-1976	2000	04-15-1999
1978	05-17-1977	2001	04-13-2000
1979	05-17-1978	2002	05-10-2001
1980	05-24-1979	2003	[none]
1981	06-12-1980	2004	04-11-2003
1982	05-21-1981	2005	[none]
1983	06-23-1982	2006	04-28-2005
1984	06-23-1983	2007	[none]
1985	10-01-1984	2008	05-17-2007
1986	08-01-1985	2009	06-05-2008
1987	06-27-1986	2010	04-29-2009
1988	06-24-1987	2011	[none]
1989	06-06-1988	2012	[none]
1990	05-18-1989	2013	[none]
1991	10-09-1990	2014	[none]
1992	05-22-1991	2015	[none]
1993	05-21-1992	2016	05-05-2015
1994	04-01-1993	2017	01-13-2017
1995	05-12-1994	2016	05-05-2015
1996	06-29-1995	2017	01-13-2017
1997	06-13-1996	2018	10-26-2017
1998	06-05-1997	2019	No agreement yet

Source: Legislative Information Service.

[13] The appropriations process for FY2017 moved forward before there was agreement on a budget resolution. For the Senate, the Bipartisan Budget Act of 2015 (P.L. 114-74) included a provision directing the Senate Budget Committee chair to file levels in the *Congressional Record* that would be enforceable in the Senate as if they had been included in a budget resolution for FY2017. No such provision was included for the House. In the absence of any such enforceable levels, the House Appropriations Committee adopted "interim 302(b) sub-allocations" for some individual appropriations bills. Such levels did not act as an enforceable cap on appropriations measures when they were considered on the floor. A separate House rule, however, prohibited floor amendments that would increase spending in a general appropriations bill, effectively creating a cap on individual appropriations bills when they were considered on the floor.

Table 2. Deeming Resolutions Pertaining to Those Fiscal Years for Which Congress Did Not Agree on a Budget Resolution

Legislative Vehicles and Dates of Adoption

Fiscal Year (Congress)	House	Senate
FY1999 (105th)	• H.Res. 477: a resolution also providing for the consideration of the FY1999 Military Construction Appropriations Act. Adopted 6-19-1998.	• S.Res. 209: a resolution solely for deeming purposes. Adopted 4-2-1998. • S.Res. 312: a resolution solely for deeming purposes. Adopted 10-21-1998.
FY2003 (107th)	• H.Res. 428: a resolution also providing for the consideration of a FY2002 supplemental appropriations act. Adopted 5-22-2002.	• The Senate did not adopt a deeming resolution.
FY2005 (108th)	• H.Res. 649: a resolution also providing for the consideration of the conference report on the FY2005 budget resolution. Adopted 5-19-2004.	• H.R. 4613: the Defense Appropriations Act for FY2005, Section 14007 (P.L. 108-287). Enacted 8-5-2004.
FY2007 (109th)	• H.Res. 818: a resolution also providing for the consideration of the FY2007 Department of Interior Appropriations Act. Adopted 5-18-2006.	• H.R. 4939: the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery for FY2006, Section 7035 (P.L. 109-234). Enacted 6-15-2006.
FY2011 (111th)	• H.Res. 1493: A resolution solely for deeming purposes (referred to as a budget enforcement resolution) was adopted as part of H.Res. 1500, a resolution also providing for consideration of a Senate amendment to an FY2010 Supplemental Appropriations Act. Adopted 7-1-2010.	• The Senate did not adopt a deeming resolution.
FY2012 (112th)	• H.Res. 287: a resolution also providing for providing for the consideration of the FY2012 Department of Homeland Security Appropriations Act. Adopted 6-1-2011.	• S. 365: The Budget Control Act of 2011, Section 106, requires the chair of the Senate Budget Committee to file enforceable budgetary levels for FY2012 (P.L. 112-25). Enacted 8-2-2011.
FY2013 (112th)	• H.Res. 614: a resolution also providing for the consideration of the Sportsmen's Heritage Act. Adopted 4-17-2012. • H.Res. 643: a resolution also providing for the consideration of the FY2013 Commerce, Justice, Science, and Related Agencies Appropriations Act. Adopted 5-8-2012.	• S. 365: The Budget Control Act of 2011, Section 106, requires the chair of the Senate Budget Committee to file enforceable budgetary levels for FY2013 by April 15, 2012 (P.L. 112-25). Enacted 8-2-2011.

Fiscal Year (Congress)	House	Senate
FY2014 (113th)	• H.Res. 243: a resolution also providing for consideration of the FY2014 Military Constructions and Veterans Affairs Appropriations Act and the FY2014 Homeland Security Appropriations act. Adopted 6-4-2013. • H.J.Res. 59: The Bipartisan Budget Act of 2013. Section 111, requires the chair of the House Budget Committee to file enforceable budgetary levels for FY2014 (P.L. 113-67). Enacted 12-26-2013.	• H.J.Res. 59: The Bipartisan Budget Act of 2013, Section 111, requires the chair of the Senate Budget Committee to file enforceable budgetary levels for FY2014 (P.L. 113-67). Enacted 12-26-2013.
FY2015 (113th)	• H.J.Res. 59: The Bipartisan Budget Act of 2013, Section 115, requires the chair of the House Budget Committee to file enforceable budgetary levels for FY2015 if Congress has not agreed to a budget resolution by 4-15-2014 (P.L. 113-67). Enacted 12-26-2013.	• H.J.Res. 59: The Bipartisan Budget Act of 2013, Section 115, requires the chair of the Senate Budget Committee to file enforceable budgetary levels for FY2015 if Congress has not agreed to a budget resolution by 4-15-2014 (P.L. 113-67). Enacted 12-26-2013.

Source: Legislative Information Service.

Notes: The Bipartisan Budget Act of 2018, Sections 30103 and 30104 (P.L. 115-123) included provisions directing the Senate and House Budget Committee chairs to file in the *Congressional Record* levels that would then become enforceable as if they had been included in a budget resolution for FY2019. The Budget Committee chairmen were directed to file such levels between April 15, 2018, and May 15, 2018. Senate Budget Committee Chairman Enzi filed such levels on May 7, 2018, and House Budget Committee Chairman Womack files such levels on May 10, 2018. This does not preclude the Senate or House from considering and adopting a traditional budget resolution for FY2019.

In What Ways Have Deeming Resolutions Varied?

As described below, deeming resolutions have varied in several ways.

Variations in Legislative Vehicle

Congress initially used simple resolutions as the legislative vehicle for deeming resolutions (which is why they are referred to as resolutions). As shown in **Table 2**, however, deeming resolutions have also been included as provisions in lawmaking vehicles, such as appropriations bills.[14]

Questions sometimes arise regarding whether the use of an alternative legislative vehicle has any impact on the enforceability of the budgetary levels. Article I of the Constitution, however, gives each house of Congress broad authority to determine its rules of procedure. The House and the Senate may include rulemaking provisions, such as enforceable budgetary levels, in any type of legislative vehicle. In each case, the rulemaking provisions have equal standing and effect.

[14] Variations in legislative vehicle affect when the budgetary levels will become enforceable. For example, budgetary levels included in a simple resolution may be enforceable as soon as the resolution is agreed to by the chamber. On the other hand, if such provisions were included in a lawmaking vehicle, such levels would not be enforceable until that measure was enacted. If, as described below, the deeming resolution requires certain budgetary levels to be filed by the Budget Committee chair, levels would not be enforceable until filed.

Further, under this constitutional rulemaking principle, each house has the authority to take parliamentary action that waives its own rules in certain circumstances if it sees fit. This power is not compromised by the fact that the rulemaking provision may be established in statute.

Variations in Timing

As shown in **Figure 1**, timing of congressional action on deeming resolutions has varied, since deeming resolutions may be initiated any time Congress regards it as necessary. Chambers have often agreed to deeming resolutions several months after they have separately agreed to a budget resolution but have not come to agreement with each other. Also, chambers have agreed to a deeming resolution on the same day as agreeing to a budget resolution in situations when one chamber foresees difficulty resolving differences with the other chamber. For example, the Senate agreed to a budget resolution for FY1999 on April 2, 1998, and, anticipating an impasse with the House, agreed to a deeming resolution the same day. Similarly, the House passed a budget resolution for FY2007 on May 18, 2006, and agreed to a deeming resolution the same day. Further, deeming resolutions have been provided for far in advance of potential action on a budget resolution. For example, the Bipartisan Budget Act of 2015 (P.L. 114-74, enacted in November of 2015) included a provision directing the Senate Budget Committee chair to file in the *Congressional Record* levels that would then become enforceable in the Senate as if they had been included in a budget resolution for FY2017.

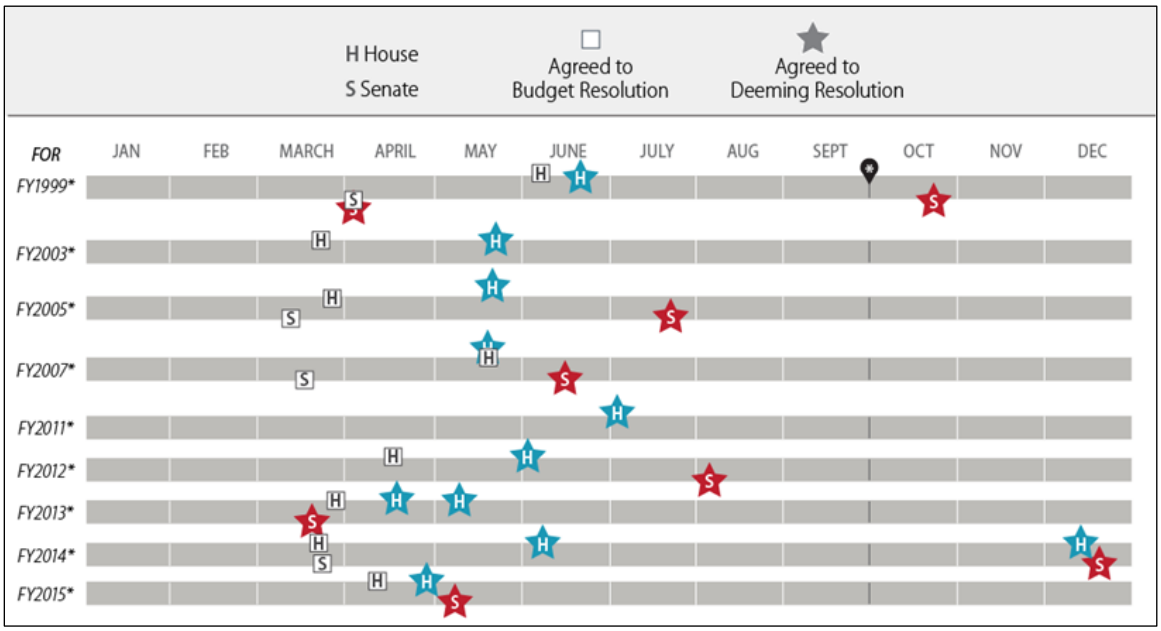
Often, a chamber initiates action on a deeming resolution so that it can subsequently begin consideration of appropriations measures. In the House deeming resolutions are often included in the same resolution providing for consideration of the first appropriations measure for the upcoming fiscal year.[15]

Just as employing a deeming resolution does not preclude Congress from subsequently agreeing to a budget resolution, it also does not preclude Congress from acting on another deeming resolution that either expands or replaces the first deeming resolution. For example, in FY1999 the Senate agreed to a deeming resolution in April, and in October it agreed to a further deeming resolution that amended the previous deeming resolution. Likewise, the House agreed to a deeming resolution for FY2014 in June but in December passed the Bipartisan Budget Act, which included a deeming resolution that superseded parts of the initial deeming resolution.

[15] For example, deeming resolutions were included in the resolutions providing for consideration of the first appropriations measure for FY1999, FY2007, and FY2012.

Figure 1. Timing of Agreement on Deeming Resolutions

Compared to Agreement on Budget Resolutions



Source: Legislative Information Service.

Notes: Asterisks denote that the information provided references the upcoming fiscal year and not the calendar year.

Variations in Content

Deeming resolutions always include at least two things: (1) language setting forth or referencing specific budgetary levels (e.g., aggregate spending limits and/or committee spending allocations), and (2) language stipulating that such levels are to be enforceable as if they had been included in a budget resolution. Even so, significant variations exist in their content, as shown in **Table 3**.

Budget resolutions include budgetary levels in the form of explicit dollar amounts, and in some instances deeming resolutions have done the same. For example:

> Pending the adoption by the Congress of a concurrent resolution on the budget for FY1999, the following allocations contemplated by section 302(a) of the Congressional Budget Act of 1974 shall be considered as made to the Committee on Appropriations: (1) New discretionary budget authority: $531,961,000,000. (2) Discretionary outlays: $562,277,000,000.[16]

Some deeming resolutions, however, have not included the budgetary levels themselves but have incorporated them by reference, particularly in situations when that chamber has already passed a budget resolution but has not come to agreement with the other chamber. For example:

> Pending the adoption of a concurrent resolution on the budget for fiscal year 2003, the provisions of House Concurrent Resolution 353, as adopted by the House, shall have force and effect in the House as though Congress has adopted such concurrent resolution.[17]

[16] H.Res. 477, §2 (105th Congress).

[17] H.Res. 428, §2 (107th Congress).

In some cases, the deeming resolution has stated that the chairs of the House and Senate Budget Committees shall subsequently file in the *Congressional Record* levels that will then become enforceable as if they had been included in a budget resolution. The committee chairs are typically directed to file particular levels, such as those consistent with discretionary spending caps or those consistent with the baseline projections of the Congressional Budget Office. Such provisions have been used recently in both the Budget Control Act of 2011 and the Bipartisan Budget Act of 2013. For example:

> For the purpose of enforcing the Congressional Budget Act of 1974 for fiscal year 2014... the ... levels provided for in subsection (b) shall apply in the same manner as for a concurrent resolution on the budget for fiscal year 2014.... The Chairmen of the Committee on the Budget of the House of Representatives and the Senate shall each submit a statement for publication in the Congressional Record as soon as practicable after the date of enactment of this Act that includes ... committee allocations for fiscal year 2014 consistent with the discretionary spending limits set forth in this Act.[18]

As stated above, deeming resolutions will sometimes reference a budget resolution that has been previously adopted by that chamber and will deem that budget resolution to be enforceable. Alternatively, mechanisms may include or reference only certain levels normally included in a budget resolution. For example, in some cases deeming resolutions have included only committee allocations to the Appropriations Committee, while in other cases they have included allocations for all committees, as well as aggregate spending and revenue levels. While content has varied, deeming resolutions that have not referenced a previously passed budget resolution have typically included only levels to be enforced by points of order, such as aggregate spending and revenue levels as well as spending allocations for each committee. Deeming resolutions generally do not include *all* of the levels required to be in a budget resolution by the Budget Act. For example, the Budget Act requires that the budget resolution include the corresponding deficit level and public debt level under the enforceable budgetary framework. These have not typically been included in deeming resolutions. In addition, deeming resolutions have often included other matter, such as points of order.

[18] Section 111 of the Bipartisan Budget Act, also referred to as the Murray-Ryan agreement (Division A of P.L. 113-67).

Table 3. Provisions Included in Deeming Resolutions Pertaining to Those Fiscal Years for Which Congress Did Not Agree on a Budget Resolution

Fiscal Year (Congress)	Chamber	Deeming Resolution	Standard Provisions	Other Provisions
FY1999 (105th)	House	H.Res. 477	Provides committee spending allocation to the House Appropriations Committee.	—
	Senate	S.Res. 209	Provides committee spending allocation to the Senate Appropriations Committee.	—
		S.Res. 312	Provides aggregate spending levels, aggregate revenue levels, and Social Security spending and revenue levels. Directs the Senate Budget Committee chair to file committee spending allocations.	Strikes the text in S.Res. 209 (the deeming resolution previously agreed to). Allows the Senate Budget Committee chair to make revisions to levels in the resolution reflecting legislation enacted in the 105th Congress. Directs the Senate Budget Committee chair to make revisions to the congressional PAYGO. Includes effective date and expiration date.
FY2003 (107th)	House	H.Res. 428	References H.Con.Res. 353, the budget resolution for FY2003, as adopted by the House. Directs the House Budget Committee chair to file committee spending allocations.	Provides that accounts identified for advance appropriations shall be those referred to in H.Con.Res. 353 (to be filed by the House Budget Committee chair). Provides estimated surplus in reference to the Contingency Fund for Additional Surpluses included in H.Con.Res. 353 (to be filed by the House Budget Committee chair). Provides committee allocations for Medicare, as required in H.Con.Res. 353 (to be filed by the House Budget Committee chair).
	Senate	—	—	—

Fiscal Year (Congress)	Chamber	Deeming Resolution	Standard Provisions	Other Provisions
FY2005 (108th)	House	H.Res. 649	References the conference report for S.Con.Res. 95, the budget resolution for FY2005, as adopted by the House.	Notes that the deeming resolution shall not be construed to engage Rule XXVII (the former House rule known as the Gephardt rule that required the House clerk to engross and transmit public debt limit legislation to the Senate upon adoption of the budget resolution).
	Senate	H.R. 4613	Provides committee spending allocation to the Senate Appropriations Committee.	References certain adjustments and limits in S.Con.Res. 95 related to contingency procedures for surface transportation, discretionary spending limits in the Senate, supplemental appropriations for Iraq and related activities, and the extension of the emergency rule in the Senate. Revokes the budget resolution for FY2004. Includes definitions and effective date.
FY2007 (109th)	House	H.Res. 818	References H.Con.Res. 376, the budget resolution for FY2007, as adopted by the House.	Notes that the deeming resolution shall not be construed to engage the Gephardt rule.
	Senate	H.R. 4939	Provides committee spending allocation to the Senate Appropriations Committee.	References certain adjustments and limits in S.Con.Res. 83—the budget resolution for FY2007, as passed by the Senate—related to emergency legislation. Alters certain sections of the budget resolution for FY2006 related to Senate discretionary spending limits and the unfunded mandates point of order. Includes effective date.

Fiscal Year (Congress)	Chamber	Deeming Resolution	Standard Provisions	Other Provisions
FY2011 (111th)	House	H.Res. 1493	Provides committee spending allocation to the House Appropriations Committee.	Extends provisions of the FY2010 budget resolution. Alters provisions of the FY2010 budget resolution and includes new provisions to reflect policies enacted in the Statutory Pay-As-You-Go Act of 2010. Includes "sense of the House" provisions related to the economy, investment, and deficit reduction. Includes a deficit-neutral reserve fund related to the recommendations of the National Commission on Fiscal Responsibility and Reform. Notes that the deeming resolution shall not be construed to engage the Gephardt rule.
	Senate	—	—	—
FY2012 (112th)	House	H.Res. 287	References H.Con.Res. 34, the budget resolution for FY2012, as adopted by the House. Provides committee spending allocations (in the committee report of H.Res. 287).	Directs the House Budget Committee chair to adjust allocations to accommodate enactment of certain legislation. Includes expiration.
	Senate	S. 365	Directs the Senate Budget Committee chair to file committee spending allocations, aggregate spending levels, aggregate revenue levels, and Social Security spending and revenue levels.	Directs the Senate Budget chair to make revisions to the congressional PAYGO scorecard. Includes expiration.
FY2013 (112th)	House	H.Res. 614	References H.Con.Res. 112, the budget resolution for FY2013 as adopted by the House, with modifications.	—
		H.Res. 643	Amends H.Res. 614 (the previously agreed-to deeming resolution) by inserting committee spending allocations as included in the committee report of the budget resolution.	—
	Senate	S. 365	Directs the Senate Budget Committee chair to file committee spending allocations, aggregate spending levels, aggregate revenue levels, and Social Security spending and revenue levels.	Directs the Senate Budget Committee chair to make revisions to the Senate PAYGO scorecard. Includes expiration.

Fiscal Year (Congress)	Chamber	Deeming Resolution	Standard Provisions	Other Provisions
FY2014 (113th)	House	H.Res. 243	References H.Con.Res. 25, the budget resolution for FY2014, as adopted by the House, with committee allocations as included in the committee report of the budget resolution.	—
		H.J.Res. 59	Directs the House Budget Committee chair to file committee spending allocations, aggregate spending levels, and aggregate revenue levels.	States that H.Con.Res. 25, the budget resolution for FY2014 as passed by the House, shall be enforceable to the extent that its levels are not superseded by the levels filed by the House Budget Committee chair. Allows the House Budget Committee chair to reduce levels to reflect enactment of legislation reducing the deficit.
	Senate	H.J.Res. 59	Directs the Senate Budget Committee chair to file committee spending allocations, aggregate spending levels, aggregate revenue levels, and Social Security spending and revenue levels.	Allows the Senate Budget Committee chair to reduce levels to reflect enactment of legislation reducing the deficit. Creates a point of order for advance appropriations. Directs the Senate Budget Committee chair to make revisions to the Senate PAYGO scorecard. References provisions from S.Con.Res. 13, the budget resolution for FY2010 as passed by the Senate, that shall remain in effect (related to budgetary treatment of certain discretionary administrative expenses, application and effect of changes in allocations and aggregates, and adjustments to reflect changes in concepts and definitions). Includes a deficit-neutral reserve fund to replace sequestration and incorporates by reference many reserve funds included in S.Con.Res. 8, the budget resolution for FY2014 as adopted by the Senate. Notes that certain provisions shall expire if a budget resolution for FY2015 is agreed to by the House and Senate.

Fiscal Year (Congress)	Chamber	Deeming Resolution	Standard Provisions	Other Provisions
FY2015 (113th)	House	H.J.Res. 59	Directs the House Budget Committee chair to file committee spending allocations, aggregate spending levels, and aggregate revenue levels (if a budget resolution for FY2015 has not been agreed upon by April 15, 2014).	Allows the House Budget Committee chair to also file updated versions of certain provisions included in H.Con.Res. 25, the budget resolution for FY2014 (related to reserve funds, limits on advance appropriations, adjustments of discretionary spending levels, budgetary treatment of certain transactions, and a separate allocation for overseas contingency operations/global war on terrorism). Allows the House Budget Committee chair to reduce levels to reflect enactment of legislation reducing the deficit. Notes that if all levels have not been filed by the House Budget Committee chair by May 15, then on the next day of House session, the Budget Committee chair shall file a committee spending allocation for the House Appropriations Committee. Notes that certain provisions shall expire if a budget resolution for FY2015 is agreed to by the House and Senate.
	Senate	H.J.Res. 59	Directs the Senate Budget Committee chair to file committee spending allocations, aggregate spending levels, aggregate revenue levels, and Social Security spending and revenue levels (if a budget resolution for FY2015 has not been agreed upon by April 15, 2014).	Allows Senate Budget Committee chair to also file updated versions of a reserve fund to replace sequestration and those reserve funds incorporated by reference from S.Con.Res. 8, the budget resolution for FY2014 as adopted by the Senate. Notes that the levels filed will supersede levels filed for FY2014 (described above). Notes that certain provisions shall expire if a budget resolution for FY2015 is agreed to by the House and Senate.

Source: Legislative Information Service.

What Types of Budgetary Enforcement Exist Outside of the Budget Resolution?

In addition to the budget resolution, Congress employs other types of budget enforcement. Some of these enforcement mechanisms are procedural (which are enforced through points of order), and some are statutory (which are enforced through sequestration). In the absence of a budget resolution, these additional budget enforcement mechanisms remain intact. This means that even without a budget resolution, there are still prohibitions and restrictions on different types of budgetary legislation. For example, a limit on defense and non-defense discretionary spending currently exists in the form of annual discretionary spending caps and in addition can act as a guide to appropriators in crafting appropriations measures. In addition, limits on new direct spending and revenue legislation exist through points of order and statutory enforcement such as Senate PAYGO, House CUTGO, and Statutory PAYGO.

Budget Enforcement Through Points of Order

The House and Senate have many budget-related points of order that seek to restrict or prohibit consideration of different types of budgetary legislation. These points of order are found in various places such as the Budget Act, House and Senate standing rules, and past budget resolutions.

For example, for FY2017, Congress moved forward with appropriations in the absence of a budget resolution or deeming resolution. The House Appropriations Committee adopted "interim 302(b) sub-allocations" for some individual appropriations bills.[19] Such levels did not act as an enforceable cap on appropriations measures when they were considered on the floor. A separate order adopted by the House as a part of H.Res. 5 (114th Congress), however, prohibited floor amendments that would increase spending in a general appropriations bill, effectively creating a cap on individual appropriations bills when they were considered on the floor.[20]

In addition, in the Senate there exists a pay-as-you-go (PAYGO) rule that prohibits the consideration of direct spending or revenue legislation that is projected to increase the deficit.[21]

[19] These levels were made available on the House Appropriations Committee website. The most recent version was released July 14, 2016, and can be accessed at http://appropriations.house.gov/uploadedfiles/07.14.16_revised_suballocation_of_budget_allocations_for_fy_2017.pdf.

[20] Specifically, H.Res. 5, Section 3(d)(3), stated, "It shall not be in order to consider an amendment to a general appropriation bill proposing a net increase in budget authority in the bill (unless considered en bloc with another amendment or amendments proposing an equal or greater decrease in such budget authority pursuant to clause 2(f) of rule XXI)." This standing order, which was in effect as a separate order in the 112th, 113th, and 114th Congresses, was incorporated into House Rule XXI by H.Res. 5 (115th Congress). This provision prohibits amendments to general appropriations bills that would result in a net increase in the level of budget authority in the bill. This does not, however, prohibit amendments that would increase budget authority in the bill if the amendment also includes an equal or greater decrease in budget authority.

[21] In either of two time periods: (1) the period consisting of the current fiscal year, the budget year, and the four ensuing fiscal years following the budget year; and (2) the period consisting of the current year, the budget year, and the ensuing nine fiscal years following the budget year. This applies to the on-budget deficit, which excludes the off-budget entities (Social Security trust funds and the Postal Service fund). This rule may be waived by three-fifths of Senators chosen and sworn. This rule has been articulated in past budget resolutions dating back to the 104th Congress and has no expiration per S.Con.Res. 11 (114th Congress).

Another example is the House cut-as-you-go (CUTGO) rule that prohibits the consideration of direct spending legislation that is projected to increase the deficit.[22]

Numerous other points of order exist. A summary of many of these can be found in CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

Budget Enforcement Through Statutory Means

In addition to points of order, there are other types of budget enforcement mechanisms that employ statutory enforcement known as a sequester. A sequester provides for the automatic cancellation of previously enacted spending, making largely across-the-board reductions to non-exempt programs, activities, and accounts. A sequester is implemented through a sequestration order issued by the President as required by law.[23]

The purpose of a sequester is to enforce certain statutory budget requirements, such as enforcing statutory limits on discretionary spending or ensuring that new revenue and direct spending laws do not have the net effect of increasing the deficit. Generally, sequesters have been used as an enforcement mechanism that would either discourage Congress from enacting legislation violating a specific budgetary goal or encourage Congress to enact legislation that would fulfill a specific budgetary goal.

Sequestration is currently employed as the enforcement mechanism for three budgetary policies:

1. The Budget Control Act of 2011 (BCA; P.L. 112-25) established annual statutory limits on each defense discretionary and non-defense discretionary spending that are in effect through 2021. If legislation is enacted breaching either the defense or non-defense discretionary spending cap, then a sequester will occur, making cuts to non-exempt programs within the corresponding category to make up for the breach. In this situation, the sequester will either deter enactment of legislation violating the spending limits or—in the event that legislation is enacted violating these limits—automatically reduce discretionary spending to the limit specified in law.[24]
2. The BCA also created a Joint Select Committee on Deficit Reduction instructed to develop legislation to reduce the budget deficit by at least $1.5 trillion over the 10-year period FY2012-FY2021. The BCA stipulated that if a measure meeting specific requirements was not enacted by January 15, 2012, then a sequester would be triggered to enforce the budgetary goal established for the committee. In this situation the sequester was meant to either encourage agreement on deficit reduction legislation or, in the event that such agreement was not reached, automatically reduce spending so that an equivalent budgetary goal would be achieved. Because the agreement was not reached, this sequester is now in effect through 2024.[25]

[22] In either of two time periods: (1) the period consisting of the current fiscal year, the budget year, and the four ensuing fiscal years following the budget year; and (2) the period consisting of the current year, the budget year, and the ensuing nine fiscal years following the budget year (House rule XXI, clause 10).

[23] For more information on sequester, see CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch.

[24] The BCA specified that the statutory limits may be adjusted for specific purposes, such as to provide for disaster relief and the global war on terrorism. For more information on discretionary spending caps, see CRS Report R44874, *The Budget Control Act: Frequently Asked Questions*, by Grant A. Driessen and Megan S. Lynch.

[25] While the committee was directed to report $1.5 trillion in savings, the BCA required the relevant sequester to

3. Another enforcement mechanism was created by the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139). The budgetary goal of Statutory PAYGO is to ensure that new revenue and direct spending legislation enacted during a session of Congress does not have the net effect of increasing the deficit (or reducing a surplus) over either a 6- or 11-year period. The sequester enforces this requirement by either deterring enactment of such legislation or, in the event that legislation has such an effect, automatically reducing spending to achieve the required deficit neutrality.[26]

Author Information

Megan S. Lynch
Specialist on Congress and the Legislative Process

Acknowledgments

This report draws on CRS Report RL31443, *The "Deeming Resolution": A Budget Enforcement Tool*, authored by former CRS Senior Specialist Robert Keith. Keith performed extensive analysis and recordkeeping, and his work contributed significantly to this and many other CRS products.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

achieve a total savings of $1.2 trillion over a nine-year period, including $216 billion of assumed savings due to debt service costs. The remaining $984 billion of required savings was divided equally across each of the nine years, resulting in annual required spending reductions of approximately $109 billion, which is approximately $55 billion for each of defense and non-defense spending. Generally, the spending reductions are to be made equally from the categories of defense spending and non-defense spending. The reductions required in each of these categories are then divided proportionally between discretionary spending and mandatory spending.

[26] For more information on Statutory PAYGO, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.