



## INFORMED BUDGETEER: THAT OTHER SEQUESTER

The lists are everywhere about all the uber-important things that the lame-duck portion of the 112th Congress might address – the sportsmen’s bill, the defense authorization bill, the cybersecurity bill, the farm bill and more, and, oh yeah, the pesky fiscal cliff, with the expiration of current tax rates on December 31, 2012 and the \$109 billion [fallback sequester resulting from the Budget Control Act](#) (BCA) on January 2, 2013.

This *Budget Bulletin* is not about any of those issues. Instead, this *Bulletin* is about an issue that numb budgeteers may have forgotten about or may have never even heard about. There is another, though smaller, sequester that, under current law, also will occur 15 days after the 112th Congress adjourns *sine die*.

By now, everyone knows that, under current law, the Office of Management and Budget (OMB) will be required to issue [a sequester order amounting to \\$109 billion](#) on January 2, 2013. Resulting from the failure of the BCA-created Joint Select Committee on Deficit Reduction (the so-called Supercommittee) to report any legislation, that sequester follows and adapts the model of the Gramm-Rudman-Hollings (GRH) law (aka the [Balanced Budget and Emergency Deficit Control Act](#) [BBEDCA]) by splitting the incidence of the sequester 50-50 between (non-exempt discretionary and mandatory) defense and non-defense accounts (although the original trigger for a sequester under GRH from 1986 to 1990 was the failure to meet a deficit target, not the failure of a Supercommittee, as under the BCA).

But under current law another, different, sequester will occur 15 days after the 112th Congress adjourns. This other sequester follows the model of the sequester mechanism enacted in the Budget Enforcement Act (BEA) of 1990 (found in section 251(a) of BBEDCA) to enforce the statutory caps on discretionary spending that also were enacted in the BEA.

The BCA re-created statutory limits on discretionary appropriations for 2012 – 2021, last seen in law from 1991 – 2002. For 2013, the BCA limit on defense (aka “security”) budget authority is \$546 billion, and the BCA limit on non-defense (aka “non-security”) budget authority is \$501 billion.

While the total of those two limits is \$1,047 billion, it is the individual category limits that are enforceable via sequestration, not the total.

What does current law say about how those limits will be enforced?

SEC. 251. (2 U.S.C. 901) ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) ENFORCEMENT.—

(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

So why will there be a sequester under section 251(a)? As shown in the table below (according to Congressional Budget Office [CBO] scoring), the amount of appropriations enacted for the defense category in the 2013 continuing resolution (CR) is \$557 billion, but the statutory limit is \$546 billion. So under current law, if the lame-duck Congress adjourns, say, on December 15, then on December 30, OMB (whose scoring is the only relevant scoring for sequester purposes, but OMB scoring of the CR is essentially the same as CBO’s) will be required to reduce the amount available under the CR for the defense category by \$11 billion. (Nothing will happen to the non-defense category, because the CR did not appropriate amounts in excess of the nondefense category limit.)

But why would Congress and the President agree to a CR that provides a level of \$557 billion for defense, only to have that decision reversed by a sequester that must be carried out three months later? One can only guess that Congress and the President intend to maintain that \$557 billion level by turning the sequester off before it can happen, by enacting another law sometime during the lame duck. They could have turned off that \$11 billion sequester when they enacted the CR in the first place, but now it has to be a two-step process. So budgeteers, add that to the to-do list for the lame duck.

**Table 1 – Defense Appropriations in CR Exceed BCA Limit by \$11 Billion, Triggering Sequester (budget authority, in \$ billions)**

| BCA Category                            | BCA Statutory Limit | Annualized Enacted CR Level | Amount Over (+)/ Under (-) Limit |
|---|---------------------|-----------------------------|----------------------------------|
| Defense (function 050)                  | 546                 | 557                         | 11                               |
| Nondefense (all other budget functions) | 501                 | 490                         | -11                              |
| Total                                   | 1,047               | 1,047                       | Not an Enforceable Limit         |

Source: CR scoring according to CBO, which is essentially the same as the as-yet unreleased OMB scoring of the CR. OMB scoring is the only scoring that is relevant for determining whether a sequester will occur under section 251(a) of the BCA.

## POSTSCRIPT

Your *Budget Bulletin* Editor for the past 12+ years or so is signing off with this one last *Budget Bulletin*. I figure there has been roughly about 150 editions that have gone out under my eyeball and under the masthead of four different Senate Budget Committee chairmen/ranking members and a procession of six staff directors. Kudos to Bill Hoagland, Senator Domenici’s Budget Committee staff director from 1986-2002, for founding the *Bulletin* on [September 10, 1991](#), and thanks to all of his successors for continuing the effort. Most importantly, thanks to you the readers for caring enough about our nation’s fiscal policy to have continued reading all these years. I hope the *Bulletin* has helped all you budgeteers stay truly informed, in a not always boring way! -Jim Hearn