



BUDGET BULLETIN

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Defense Spending Debate, BCA Caps, and OCO in Context Fiscal Year 2016 Budget Resolution

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EDITOR'S NOTE: All years are fiscal years unless otherwise stated. Figures in tables are rounded to the nearest billions of dollars unless otherwise noted.

Conversation over Budget Control Act (BCA) spending caps and the defense budget is certain to intensify in coming weeks as Congress continues to act on the authorization and appropriations process. This *Budget Bulletin* puts the defense spending debate in context, providing a foundation for understanding the history and mechanics of the BCA. Importantly, it details the approach that the Senate and House Budget Committees took on defense in drafting the 2016 budget resolution adopted by both chambers. Conferees negotiated an agreement to support a strong national defense against the backdrop of increased global instability and resurgent terrorism. The *Bulletin* concludes with an overview of the unfolding congressional action on defense funding.

The Budget Control Act: History and Mechanics for Discretionary Spending

President Barack Obama signed the [Budget Control Act of 2011](#) (P.L. 112-25) into law on August 2, 2011. The product of a bicameral, bipartisan deal, the BCA established enforceable discretionary spending caps for 2012 through 2021, created the Joint Select Committee on Deficit Reduction (JSCDR), and raised the debt limit in [three tranches](#) by \$2.1 trillion. The law's increases were exchanged for discretionary spending limits, which the Congressional Budget Office (CBO) estimated could reduce discretionary spending by [\\$917 billion](#) over the 2012-2021 period. The BCA imposed a further \$1.2 trillion in savings, to come either from the JSCDR or from a prescribed automatic budget enforcement procedure included in the act.

The BCA divided the initial discretionary budget caps for 2012 and 2013 between security spending (agency budgets for the Departments of Defense, Homeland Security, and Veterans Affairs; the National Nuclear Security Administration; the intelligence community management account; and the budget's International Affairs Function 150) and non-security spending. For the 2014-2021 period, the statute included only one annual overall cap, with no categorical division. Additionally, if Congress and the president agreed, the discretionary caps could rise each year if necessary to permit additional spending for program integrity initiatives, disasters, emergencies, and overseas contingency operations.

Initial Statutory Limits on Discretionary Spending Under the Budget Control Act										
(\$ Billions, Budget Authority, Regular Appropriations)										
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Security	684	686	N/A							
Non-Security	359	361	N/A							
Overall	N/A	N/A	1,066	1,086	1,107	1,131	1,156	1,182	1,208	1,234

While the JSCDR's stated goal was \$1.5 trillion in deficit reduction, it only needed to find \$1.2 trillion in savings in order to avoid further automatic spending reductions. The JSCDR also could have reported savings less than \$1.2 trillion, which would have reduced the automatic spending reductions. Ultimately, however, the committee did not report any savings by November 2011, and Congress did not enact at least \$1.2 trillion in savings by January 2012. This triggered the BCA's automatic budget enforcement mechanism, often dubbed "sequester."

To achieve savings, the enforcement procedures followed the directions provided in section [251A](#) of the 1985 Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended. First, to serve as a basis for calculating a sequester in 2013 and capped discretionary spending levels for the 2014-2021 period, the law required the discretionary spending limits to change from 2013 through 2021. The BCA mandated two separate caps for each year of the 2013-2021 period, split between a revised security cap (pertaining only to those accounts in the budget's National Defense Function 050) and a revised non-security cap (applying to all other budget accounts).

Statutory Limits on Discretionary Spending Under the Budget Control Act After Failure of JSCDR										
(\$ Billions, Budget Authority, Regular Appropriations)										
	2013	2014	2015	2016	2017	2018	2019	2020	2021	
Defense (Revised Security)	546	556	566	577	590	603	616	630	644	
Non-Defense (Revised Non-Security)	501	510	520	530	541	553	566	578	590	

Second, the law required the division of the \$1.2 trillion in deficit reduction across the 2013-2021 period, after following the statutory requirement to adjust the target downward by 18 percent for debt-service costs. This resulted in required discretionary spending reductions of \$984 billion over the nine-year period, or \$109.3 billion annually, to be divided evenly between defense and non-defense spending. Each spending category was responsible for about \$54.7 billion in deficit reduction. The Office of Management and Budget (OMB) determines the proportional annual allocations of required reductions for discretionary and mandatory spending and [informs Congress](#) of the calculations, as stipulated in section 254 of BBEDCA.

Following the calculations, the next step was to implement the annual reductions. The BCA's enforcement procedures took a different approach for 2013 than for the 2014-2021 period. For 2013, discretionary spending was subject to sequestration (across-the-board cuts of [non-exempt](#) spending). For the 2014-2021 period, savings for discretionary spending would take the form of reductions to each cap category. From 2014 through 2021, discretionary spending would face sequestration's across-the-board cuts only if Congress breached the spending limit. It is important to note that sequestration for a cap breach is carried out on a categorical basis, as prescribed by section 251 of BBEDCA. Therefore, if the defense limit is breached, for example, then the automatic across-the-board cuts only apply to defense programs.

Before the 2013 sequester could take effect, in January 2013 Congress adjusted the BCA through ATRA, the [American Taxpayer Relief Act of 2013](#) (P.L. 112-240), or the "fiscal cliff deal." ATRA [modified](#) the BCA in four [notable ways](#): 1) It delayed until March 2013 both enforcement of the discretionary cap limits, giving Congress time to finish appropriations action for the year, and sequestration stemming from the failure of the JSCDR, originally slated to occur in January 2013. 2) It reverted the categorical cap definitions back to the broad agency-based definitions for 2013. 3) It reduced the 2013 sequestration requirement by \$24 billion, from \$109 billion to \$85 billion. 4) In order to offset the \$24 billion in lost sequestration, it included a Roth-IRA provision that raised revenues and reduced BCA spending levels by \$4 billion in 2013 and \$8 billion in 2014, split evenly between defense and non-defense categories.

ATRA BCA Amendments		
(\$ Billions, BA)		
	2013	2014
Limits Before JSCDR Failure		
Security	686	N/A
Non-Security	361	N/A
Overall	N/A	1,066
Limits After JSCDR Failure		
Defense (Revised Security)	546	556
Non-Defense (Revised Non-Security)	501	510

ATRA Changes*		
Security	684	N/A
Non-Security	359	N/A
Defense (Revised Security)	N/A	552
Non-Defense (Revised Non-Security)	N/A	506
*While ATRA returned the discretionary caps to the original categorical definitions for FY 2013, the law required the use of \$544 billion for defense and \$499 billion for non-defense to calculate the March 1 sequester order for FY2013.		

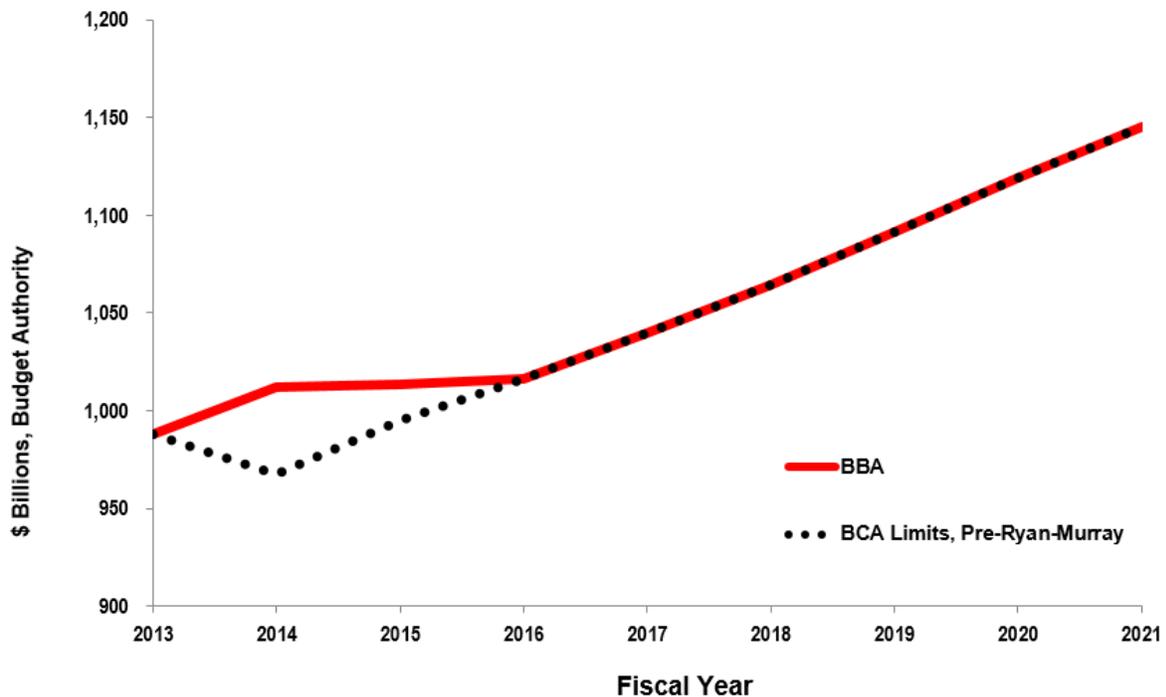
Eventually, the JSCDR sequestration was ordered on [March 1, 2013](#), though sequestration totaled only \$72 billion due to execution rules. OMB also determined on [March 27, 2013](#), that Congress did not breach the spending caps for 2013, so [no further sequestration](#) was required.

Following ATRA, Congress again revised the BCA in the BBA, the [Bipartisan Budget Act of 2013](#) (P.L. 113-67), signed into law on December 26, 2013. The BBA cancelled the cap reductions for 2014 and 2015 and increased the discretionary spending caps by \$63.2 billion. This change provided an additional \$44.8 billion in 2014 and \$18.5 billion in 2015, split evenly between defense and non-defense categories.

Bipartisan Budget Act Discretionary Spending Increases			
(\$ Billions, BA)			
	FY 2014	FY 2015	Total
Defense			
BCA	498.1	512.0	
BBA	520.5	521.3	
Increase	22.4	9.2	31.6
Non-Defense			
BCA	469.4	483.1	
BBA	491.8	492.4	
Increase	22.4	9.2	31.6
Total Increase	44.8	18.5	63.2

These increases in the discretionary spending limits mitigated the BCA's call for defense spending to fall below \$500 billion and non-defense discretionary spending to be flat-funded. Congress abided by these new limits in [2014](#) (with \$520.5 billion for defense and \$491.8 billion for non-defense) and [2015](#) (with \$521.3 billion for defense and \$492.4 billion for non-defense), and no sequestration of discretionary funds occurred in [either year](#). Following the adoption of the BBA spending levels, discretionary spending under current law will increase each year of the remaining BCA window.

Total Discretionary Spending Levels: Bipartisan Budget Act vs. BCA Limits, Pre-Ryan-Murray



Source: Senate Budget Committee Republican staff calculations based on CBO data. FY 2013 data based on enacted levels less March 1, 2013 sequester.

Discretionary Spending: 2016-2021

Barring further legislative changes, discretionary spending at the BCA levels put in place in January 2012 will occur for the first time in 2016. CBO has provided an estimate of the future categorical limits for discretionary spending. The following table shows the BCA spending caps put in place after the JSCDR failure, when the caps were restructured from one overall cap to separate categories, resulting in required cap reductions. These reduced caps are the current-law funding levels included in the CBO's latest [baseline](#).

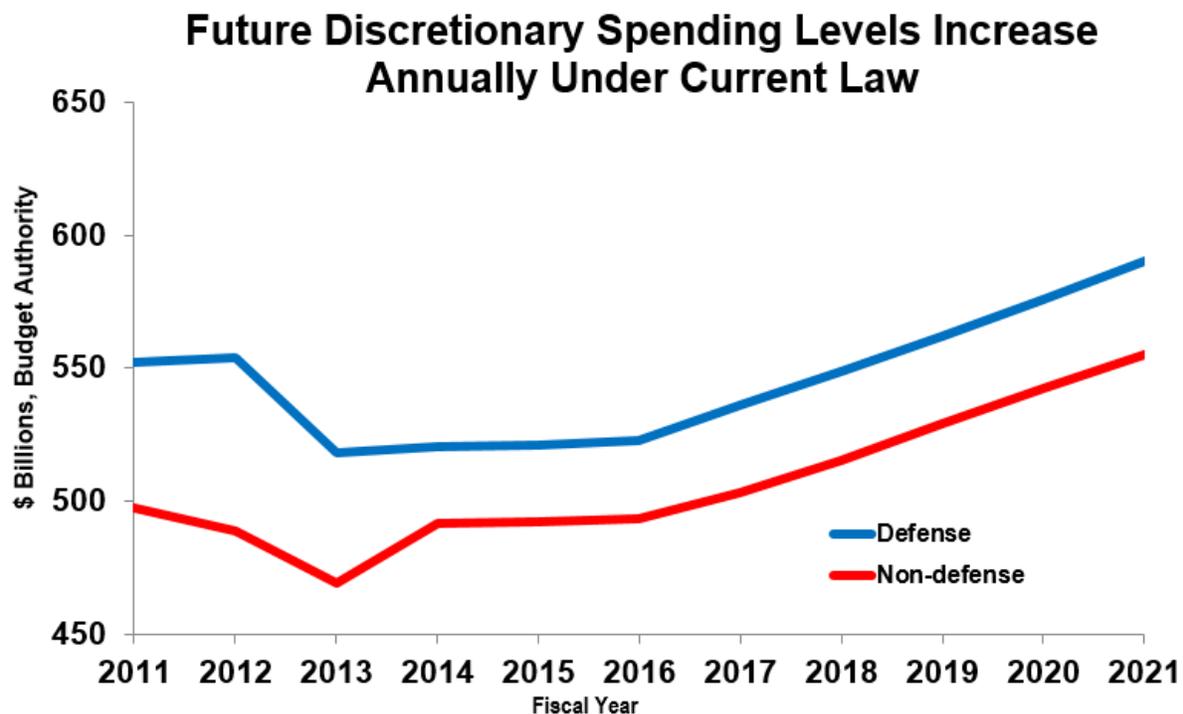
CBO Estimate of Limits on Discretionary Budget Authority FY 2016-2021						
(\$ Billions, Budget Authority, Regular Appropriations)						
	2016	2017	2018	2019	2020	2021
Initial BCA Caps						
Defense	577	590	603	616	630	644
Non-Defense	530	541	553	566	578	590
Total	1,107	1,131	1,156	1,182	1,208	1,234

JSCDR Cap Reductions

Defense	-54	-54	-54	-54	-54	-54
Non-Defense	-37	-37	-38	-37	-35	-35
Total	-90	-91	-92	-91	-89	-89

Current Law Caps						
Defense	523	536	549	562	576	590
Non-Defense	493	504	515	529	543	555
Total	1,017	1,040	1,064	1,091	1,119	1,145

Base discretionary spending has remained relatively flat between 2014 and 2016, with minor increases for each category. Starting in 2017, however, each category begins to increase substantially on a yearly basis. Over the 2017-2021 period, each category will increase by an average of more than 2 percent annually.



Source: Senate Budget Committee Republican staff calculations based on CBO data. FY 2013 data adjusted for March 1, 2013 sequester.

Budget Resolution's Rationale on Defense Funding and OCO

On May 5, 2015, the Senate passed [S. Con. Res. 11](#), the Concurrent Resolution on the Budget for Fiscal Year 2016. The concurrent resolution as adopted by both chambers now serves as the outline for congressional spending priorities during the 2016-2025 period. If Congress adheres to the

spending and revenue path prescribed by the resolution, the budget will reach balance and move into surplus by 2024. A description of the 2016 budget plan is [here](#).

Throughout the process leading up to final passage, lawmakers emphasized the duty to provide sufficient resources to the U.S. military to protect Americans amid mounting security threats, while retaining the BCA's structure to help balance the budget. In the end, the resolution worked within the constraints of the law to meet both goals.

The resolution's rationale for adhering to the BCA defense cap was simple and sound: A budget resolution cannot change the BCA. Only a law passed by Congress and signed by the president can modify the BCA caps. Furthermore, any resolution supporting spending in excess of statutory discretionary limits violates section 312(b) of the Congressional Budget Act of 1974, subjecting it to a 60-vote point of order in the Senate.

Instead, the budget resolution assumed defense funding levels at BCA cap levels from 2016 through 2021. After 2016, the BCA caps allow discretionary defense spending to increase annually by an average of \$13.4 billion, or 2.4 percent. Should Congress decide that this level of funding is insufficient, the resolution also provides deficit-neutral reserve funds (section 4302 in the Senate and section 4511 in the House) permitting increases in defense discretionary spending that are offset elsewhere in the budget. Applicable offsets vary by chamber.

Recognizing the need for increased defense spending during the remaining BCA years, the resolution assumes additional spending in the form of overseas contingency operations (OCO) funds. In 2016, OCO funding (including funding for international affairs programs) totals more than \$96 billion, approximately \$38 billion over the president's request. When the resolution's regular defense discretionary funding level (\$523 billion) and defense-related OCO funding levels (\$89 billion) are combined, they are in line with the administration's request of \$612 billion in total national security funding levels.

This OCO approach is fully compliant with the BCA and allowed under section 251(b)(2)(ii) of BBEDCA. Under the BBEDCA provision, Congress may designate any funding it sees fit for OCO purposes and adjust the spending caps accordingly. The president also must agree to the designation. Therefore, in past appropriations bills, funding with the OCO designation has become available after the president agrees to the [designation](#).

In years past, these funds have been used for a wide variety of purposes. As the [Congressional Research Service](#) affirms, the president has signed defense spending bills with OCO provisions that do not spend only on "war-related" costs totaling billions of dollars each year.

The following table shows that the budget resolution provides \$187 billion more in total OCO funding than the president requested.

Overseas Contingency Operations Comparison: Budget Resolution vs. President's Request

	(\$ Billions, BA)						
	2016	2017	2018	2019	2020	2021	2016-2021
Conference Agreement	96	65	63	58	50	48	378
President's Budget	58	27	27	27	27	27	191
Difference	38	38	36	31	23	21	187

While this OCO funding would occur through the use of the BCA's cap adjustment mechanisms, there are those who argue that the budget resolution does not include these increased OCO costs—they are wrong. In fact, each dollar of assumed OCO funding levels in the budget is contained in the resolution's Overseas Contingency Operations/Global War on Terrorism Function 970 ([Table 6 of the report](#) accompanying the resolution). The bottom line: Even after accounting for these costs, the resolution produces a unified surplus by the end of the budget window.

Issues in Unfolding Defense Funding Debate

Funding levels for the defense budget are front and center on the Senate floor as the Senate continues to debate the National Defense Authorization Act for Fiscal Year 2016 ([S. 1376](#)), or NDAA. The House passed its version ([H.R. 1735](#)) on May 15 by a vote of 269-151. Both the [House bill](#) and reported [Senate bill](#) adhere to the funding structure assumed in the budget resolution. In a Congress now focused on regular order, the NDAA sets a path for the Appropriations Committee to follow.

During markup of the NDAA by the Senate Armed Services Committee, the committee voted on three amendments related to the BCA limits or OCO funding. The first amendment, offered by Senator Jack Reed (D-RI) and defeated by a vote of 12-14, would have limited the obligation of the \$38 billion in OCO funding above the president's request unless the BCA caps were increased for defense and non-defense limits in equal amounts, or \$38 billion was provided in non-defense funding on an emergency basis.

The second amendment, offered by Senator John McCain (R-AZ) and agreed to by a vote of 23-3, would transfer up to \$38 billion in funding from OCO to the base budget in the event that the BCA caps are increased in 2016. The third and final amendment, offered by Senator Tim Kaine (D-VA), would insert a sense of the Senate on sequestration. The Kaine amendment uses the term "sequestration" and the claimed threat of across-the-board cuts to justify increasing BCA limits despite the fact that sequestration on discretionary spending is not automatic and only occurs if Congress ignores the law. The amendment (now section 1004) was approved by a vote of 16-10.

The inclusion both of the transfer authority and the sense of the Senate led to the committee's reporting the bill favorably by a vote of 22-4.

In addition to the authorization process, the Appropriations Committee still needs to grapple with funding questions. Last month, appropriators adopted their [302 \(b\) sub-allocations](#) (the amount of discretionary spending allowed by each of the committee's 12 subcommittees) along party lines, with Senator Barbara Mikulski (D-MD) offering a separate [set of allocations](#) based on modified cap levels. OCO funding levels also remain a point of contention as appropriators divide the overall OCO cap between defense and international affairs programs. Current allocations have defense-related OCO below the level authorized in the NDAA.

**FY 2016 Senate Appropriations: 302(b) Security and OCO
Allocations***

(\$ Billions, BA)				
Subcommittee	Security (Defense)		OCO	
	Official	Mikulski Alt.	Official	Mikulski Alt.
Commerce/Justice/Science	5.068	5.068	-	
Defense	488.995	526.476	86.869	50.950
Energy/Water	19.002	19.200	-	
Financial Services	0.046	0.046	-	
Homeland	1.711	1.736	0.160	0.160
MilCon/VA	8.083	8.288	-	
State/Foreign	-	-	9.258	7.047
Transportation/HUD	0.186	0.186	-	
Total	523.091	561.000	96.287	58.157

*Official sub-allocations reflect allocations as of May 21, 2015.

Further complications in the appropriations process may arise from minority members who have [vowed](#) to block consideration of any appropriations bills that adhere to the levels prescribed by the BCA. The administration also has cautioned against the "dangers" of sequestration with [appeals](#) to House Appropriations Committee, threatening presidential vetoes against the House-reported appropriations bills. This approach could hinder the regular-order full and open congressional debate needed to complete the appropriations process, adding further complexity to resolving the 2016 defense budget.