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Cap Adjustments: How the Government Raises Its Spending Limit

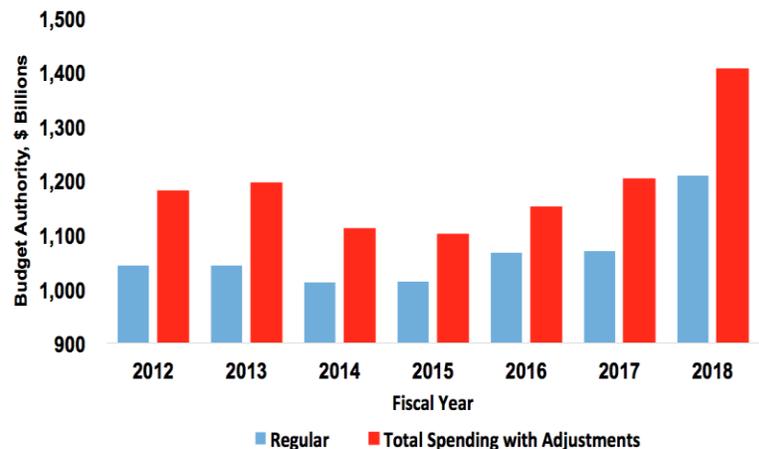
by Republican Budget Committee Staff

Arguing about discretionary topline funding levels has become a biennial ritual for Congress and the Administration since enactment of the 2011 Budget Control Act (BCA), which capped discretionary funding through fiscal year 2021 in an effort to rein in spending. Overlooked in these fiscal dustups is the fact that actual discretionary appropriations totals for any given year are significantly higher than the reported discretionary toplines. That's because the BCA allows for several cap adjustments to increase spending for specified purposes without triggering a breach of statutory spending limits. These adjustments, which have grown in number in successive spending deals, have supported a staggering \$890 billion in discretionary spending beyond the BCA's base caps.

Cap Adjustments Primer

Cap adjustment authority is found in Section 251(b) of the 1985 Balanced Budget and Emergency Deficit Control Act (BBEDCA). The adjustments serve two purposes: First, they allow the Office of Management and Budget (OMB) to make changes to enforceable levels when determining cap compliance (compliance is enforced through sequestration orders issued by OMB). Second, they permit the House and Senate Budget Committees to modify enforceable spending limits for congressional scorekeeping purposes and determining points of order.

**Discretionary Spending:
Regular vs Total Spending with Cap Adjustments
FY 2012-2018**



FY 2103 Figures do not include effects of March 2013 sequestration order.

Cap adjustments can be grouped into three broad categories:

- **Adjustments without a ceiling.** These include funding designated as emergency or Overseas Contingency Operations / Global War on Terror (OCO/GWOT) and require only that Congress declare and the President agree with the designation.
- **Formula-driven adjustments.** These have an annual maximum adjustment that is calculated each year by OMB based on specifications in statute.
- **Adjustments with base requirements.** These have a statutory maximum and can only be tapped if Congress first provides a specified amount of regular (non-adjusted) appropriations.

OMB Calculations of Fiscal Year 2012-2018 Cap Adjustments								
\$ Billions, Budget Authority								
	2012	2013	2014	2015	2016	2017	2018	Total
OCO/GWOT	126.5	98.7	91.9	73.7	73.7	103.7	78.1	646.3
Emergency	0.0	41.6	0.2	5.4	1.7	19.4	109.7	178.0
Program Integrity	0.5	0.5	0.9	1.5	1.5	2.0	1.9	8.8
Disaster Relief	10.5	11.8	5.6	6.5	7.6	8.1	7.4	57.5
Total	137.5	152.6	98.6	87.1	84.5	133.2	197.1	890.6

No Ceiling Cap Adjustments

Emergency. Under BBEDCA, if Congress and the President agree to designate an appropriation as an emergency, the cap is adjusted by the total amount of the appropriation. While these agreements are commonplace, Congress routinely includes language in appropriations measures providing that such funding is only made available (or rescinded) if the President concurs with the designation. This is done to prevent a potential cap breach and resulting sequester if the President disagrees with the designation.

An emergency designation can be struck by any senator under section 314(e) of the Congressional Budget Act. This point of order, which requires 60 votes to waive, allows for such a designation to be removed while the funding is retained (this has the potential of bringing the measure out of compliance). Notably, there is emergency spending in fiscal year 2018 that falls within the jurisdiction of each appropriations subcommittee.

Overseas Contingency Operations / Global War on Terrorism. Similar in practice to an emergency designation, if Congress and the President agree to designate an appropriation as OCO/GWOT, the cap is adjusted by the total amount of the appropriation. For fiscal year 2018, this adjustment was used for spending in the jurisdiction of four appropriations subcommittees: Defense, State and Foreign Operations, Homeland Security, and Military Construction/Veterans Affairs.

Formula-Driven Cap Adjustments

Disaster Relief. Discretionary spending caps can be adjusted to account for funding related to disaster relief under the Stafford Act based on based on a specified formula. That calculation consists of three parts, the first of which was established by the BCA and the latter two of which were included in the fiscal year 2018 omnibus appropriations bill.



CBO Baseline

The baseline is the benchmark against which Congress measures the federal spending and revenue effects of proposed legislation. It projects levels of budget authority, outlays, and revenues for the budget window assuming current laws remain in place. The baseline covers a 10-year window and is typically released by CBO in January, with updates in March and August.

The calculation includes the following:

1. The average funding provided for disaster relief over the previous 10 years, disregarding the highest and lowest years;
2. The rollover of the unused amounts of the calculation from previous fiscal years (prior to enactment of the omnibus, the rollover was limited to the immediate left-over amounts from the previous year); and
3. Five percent of emergency-designated disaster relief costs since 2012.

For fiscal year 2018, the disaster cap ceiling is \$7.4 billion. Earlier this year, OMB estimated that the ceiling for fiscal year 2019 would also be \$7.4 billion, but that was before calculating the potential five percent add-on. This add-on, which will total \$6.9 billion, will be discussed in OMB’s sequestration update report, expected in August.

Adjustments with Base Requirements

Adjustments with base requirements all have preset statutory maximums and can only be tapped if Congress first provides a specified amount of regular appropriations. The preset maximums are shown in the chart on the right side of this page.

Program Integrity Adjustments. BBEDCA provides for three types of program integrity cap adjustments.

- **Continuing Disability Reviews and Redeterminations (Social Security Administration).** A base appropriation of \$273 million is required before cap adjustments becomes available.
- **Health Care Fraud and Abuse Control.** Adjustments are allowed for appropriations to reduce Medicare improper payments and support the Health Care Fraud Prevention and Enforcement Team Initiative. The caps may only be adjusted up after \$311 million in base appropriations are provided each year.

- **Reemployment Services and Eligibility Assessments.** The Bipartisan Budget Act of 2018 created a new adjustment for Reemployment Services and Eligibility Assessments, found in Section 251(b)(2)(E) of BBEDCA. Fiscal year 2019 will be the first year this cap adjustment can be used to provide additional funding to support establishing reemployment services and strengthening program integrity efforts to reduce improper payments to individuals who do not qualify for unemployment compensation. The adjustment requires a base appropriation of \$117 million for these grants.

Wildfire Suppression Activities. The 2018 omnibus appropriations bill created a new cap adjustment for wildfire suppression operations. The adjustment requires base appropriations consistent with the 10-year average costs for wildfire suppression requested in the Obama Administration’s fiscal year 2015 budget request. This designation begins in fiscal year 2020.

Adjustments with Base Requirements: Maximum Adjustments (in Millions)			
	2019	2020	2021
Program Integrity			
Disability Reviews/ Redeterminations	1,410	1,309	1,302
Health Care Fraud and Abuse Control	454	475	496
Reemployment Services / Eligibility Services	33	58	83
Wildfire Suppression	0	2,250	2,350

Cap Adjustments Status

The Senate Committee-passed fiscal year 2019 appropriations bills include \$85.6 billion in proposed cap adjustments, including \$77.0 billion in funding designated for OCO/GWOT, \$1.9 billion for program integrity measures, and \$6.7 billion for disaster relief.

IN CASE YOU MISSED IT...

- **HEADLINE:** Speaker Paul Ryan Endorses Mike Enzi's 2-year Spending Plan.
- On July 3, 2018, the Congressional Budget Office **released** its revised report on Expired and Expiring Authorizations of Appropriations for fiscal year 2018.
- The Senate Appropriations Committee has made three changes to its allocation limits. **S. Report 115-279 (June 17, 2018)**, **S. Report 115-287 (June 27, 2018)**, **S. Report 115-288 (June 28, 2018)**
- On June 18, 2018, Chairman Enzi **filed** an adjustment to funding covering the Senate Appropriations Subcommittees on Energy and Water, Military Construction and Veterans Affairs, and the Legislative Branch.

Costly Information Technology Upgrades

In June 2017, the Veterans Affairs Department (VA) announced it would abandon plans to upgrade its aging health information technology (IT) system, the Veterans Health Information Systems and Technology Architecture (VistA). Dating back to 2001, the VA's four separate attempts to modernize VistA have failed, and at great expense. According to the Government Accountability Office, between 2011 and 2016 the VA obligated \$1.1 billion to contractors developing two separate replacement programs for VistA. But rather than continue with the upgrade, the VA now plans to purchase the same health record system the Defense Department is adopting. The VA estimates implementing this new system will cost \$15.8 billion over 10 years. Senate Budget Chairman Mike Enzi [recently called on the VA](#) to implement the new health IT system in a timely and fiscally responsible manner.



Costly Technology Upgrades Dept. of Veterans Affairs

\$1.1 Billion

Since 2001, the VA has spent more than \$1 billion on 4 unsuccessful attempts to modernize its aging health information technology system.



\$15.8 Billion

The VA's new plan to modernize electronic health records will cost approx. \$15.8 billion over a 10-year period.



Have a tip about federal taxpayer dollars being wasted or mismanaged? You can report it directly to the Senate Budget Committee by emailing Oversight@budget.senate.gov. Your personal information will be kept confidential and will only be used to contact you, if necessary, for additional information about the tip.

Senate Committee on the Budget