



March 13, 2024

Honorable Jodey Arrington
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

Honorable Brendan F. Boyle
Ranking Member
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

*Re: An Update About Implementing the Statutory Limits on Discretionary
Funding for Fiscal Year 2024*

Dear Chairman Arrington and Ranking Member Boyle:

At your request, the Congressional Budget Office is providing an update to its earlier estimate of the effects of a potential sequestration under the caps established by the Fiscal Responsibility Act of 2023 (FRA).¹ (Sequestration is the process by which across-the-board reductions are applied to budgetary resources.)

Sections 102 and 101 of the FRA specify two sets of caps, which take effect under different circumstances. Which set of caps applies depends on the timing of the enactment of appropriation acts and the duration for which funding is provided (see Figure 1). CBO's letter of January 4, 2024, explains more about the potential enforcement of those caps. Ultimately, the authority to decide whether sequestration is required and to calculate the percentage reductions, if any, rests with the Office of Management and Budget (OMB).

Full-year appropriations have now been enacted for some agencies. On March 9, 2024, the President signed into law the Consolidated Appropriations Act (CAA), 2024, which provided appropriations for the balance of fiscal year 2024 for federal agencies under the jurisdiction of 6 of the 12 appropriations

1. See Congressional Budget Office, letter to the Honorable Jodey Arrington and the Honorable Brendan F. Boyle regarding implementing the statutory limits on discretionary funding for fiscal year 2024 (January 4, 2024), www.cbo.gov/publication/59861.

subcommittees. The estimates in this letter account for the funding amounts provided in that law.²

All other agencies are funded through March 22, 2024, by the Extension of Continuing Appropriations and Other Matters Act, 2024, which is the current continuing resolution. The estimates here annualize the funding provided in that act.³

Sequestration Under the Section 102 Caps

Unless all full-year appropriations have been enacted by April 30, 2024, OMB will use the section 102 caps to determine whether sequestration is required. Under the CAA, 2024, and the current continuing resolution, defense funding that is constrained by the caps exceeds by \$11 billion the FRA’s section 102 defense cap of \$850 billion, according to CBO’s calculations. Thus, if the current continuing resolution remained in effect through April 30, 2024, OMB would be required to cancel about 1 percent of sequestrable defense budgetary resources on that date (see Table 1).

Table 1.
CBO’s Estimates of Potential Sequestration Under Sections 102 and 101 of the FRA

Percent	Section 102		Section 101	
	Defense	Nondefense	Defense	Nondefense
Updated Estimate, Based on Funding Under the CAA, 2024, and the Current Continuing Resolution	1	None	None	4
Estimate of January 4, 2024, Based on Funding Provided by the Earlier Continuing Resolution	1	5	None	9

Source: Congressional Budget Office.

Discretionary funding is provided by the CAA, 2024, and the current continuing resolution (the Extension of Continuing Appropriations and Other Matters Act, 2024). The January 4, 2024, estimate was for funding provided in the earlier continuing resolution, the Further Continuing Appropriations and Other Extensions Act, 2024.

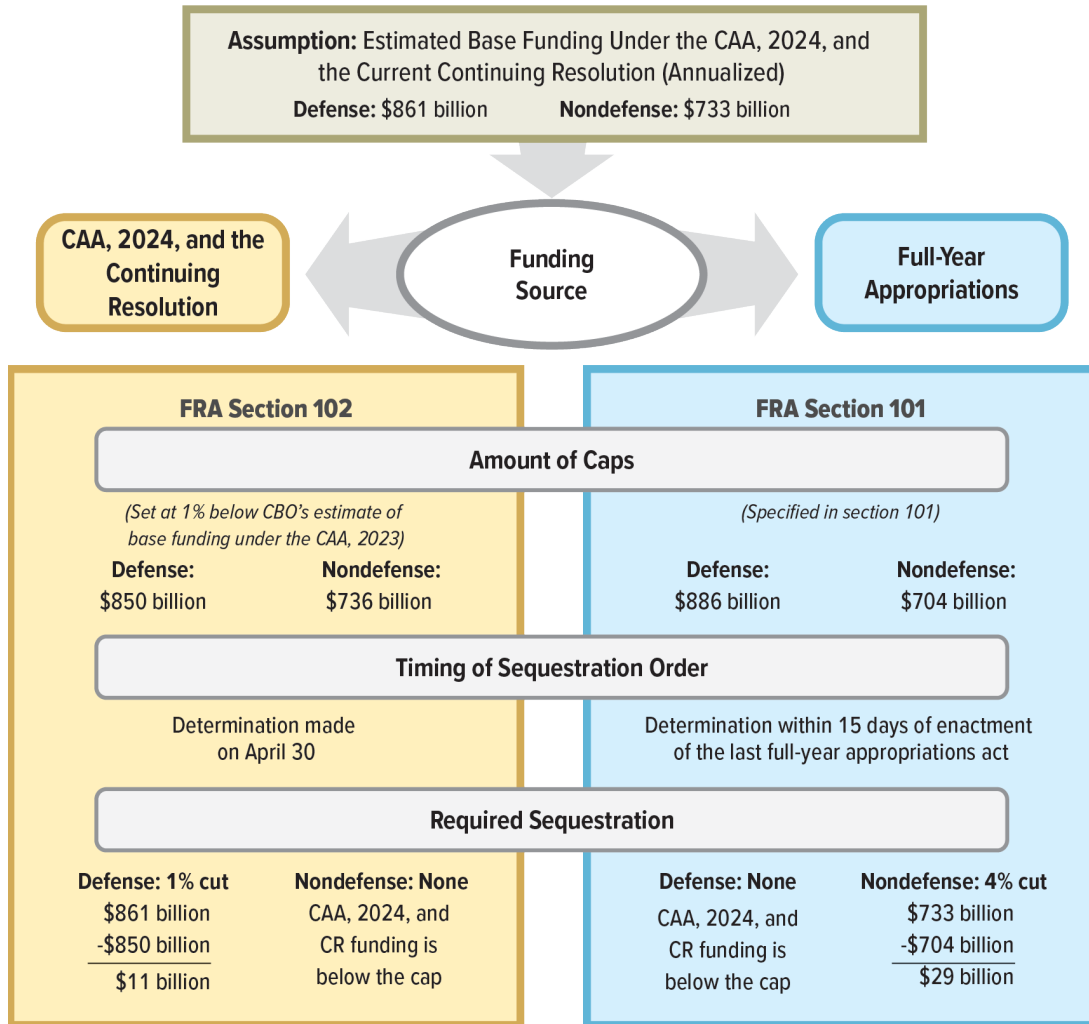
CAA, 2024 = Consolidated Appropriations Act, 2024; FRA = Fiscal Responsibility Act of 2023.

2. Congressional Budget Office, cost estimate for H.R. 4366, the Consolidated Appropriations Act, 2024 (March 5, 2024), www.cbo.gov/publication/60058.
3. Congressional Budget Office, cost estimate for H.R. 7463, the Extension of Continuing Appropriations and Other Matters Act, 2024 (February 29, 2024), www.cbo.gov/publication/60035. Some amounts in that estimate are superseded by the CAA, 2024.

Figure 1.

Sequestration in 2024 Under Two Scenarios

CBO estimated the reductions to discretionary funding that would be required under sections 102 and 101 of the FRA if funding remained at the amounts provided by the CAA, 2024, and specified in the current continuing resolution. If necessary, the caps will be enforced by OMB through sequestration, the process by which across-the-board reductions are applied to budgetary resources.



Source: Congressional Budget Office and information provided by the Office of Management and Budget.

As of March 13, 2024, discretionary funding was as provided by the Consolidated Appropriations Act, 2024, and the Extension of Continuing Appropriations and Other Matters Act, 2024 (the current continuing resolution).

According to OMB, if full-year appropriations were enacted after sequestration was ordered on April 30, 2024, the section 101 caps would apply but the reductions in budgetary resources (which would be ordered to comply with section 102) would not be reversed automatically without legislative action. Therefore, the total amount of defense funding for fiscal year 2024 might remain at the amount set in section 102 if full-year funding that equaled the amounts provided in the CAA, 2024, and in the current continuing resolution was enacted after April 30, unless future laws reversed the sequestration order.

CAA, 2023 = Consolidated Appropriations Act, 2023; CAA, 2024 = Consolidated Appropriations Act, 2024; FRA = Fiscal Responsibility Act of 2023; OMB = Office of Management and Budget.

Nondefense funding in those acts is \$3 billion below the section 102 nondefense cap (\$736 billion), so no sequestration of nondefense budgetary resources would be required. Before the enactment of the CAA, 2024, CBO had estimated that a defense cut of 1 percent and a nondefense cut of 5 percent would be required under the section 102 caps.

Sequestration Under the Section 101 Caps

If full-year appropriations for the agencies operating under the current continuing resolution are enacted, the FRA's section 101 caps will apply. Those caps are lower for nondefense funding and higher for defense funding than the section 102 caps are.

If full-year funding for agencies that are operating under the current continuing resolution were provided at the annualized amounts under that resolution, nondefense funding that is constrained by the caps would exceed the section 101 nondefense cap by \$29 billion. A sequestration of about 4 percent would be required to enforce that cap, CBO estimates.⁴ Defense funding provided under the continuing resolution is \$25 billion below the section 101 cap, so no sequestration would be required in that category.⁵ Before the enactment of the CAA, 2024, CBO had estimated that a sequestration of 9 percent of nondefense budgetary resources would be required and that no defense sequestration would be required.

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4. Section 251 of the Balanced Budget and Emergency Deficit Control Act provides that an appropriation enacted after June 30 that causes a breach of the caps for the fiscal year in progress does not cause a sequestration in that year. Instead, the discretionary spending limits that apply in the following fiscal year are reduced by the amount of the breach.
 5. According to OMB, if full-year appropriations were enacted after sequestration was ordered on April 30, 2024, the section 101 caps would apply but the reductions in budgetary resources (which would be ordered to comply with section 102) would not be reversed automatically without legislative action. Therefore, the total amount of defense funding for fiscal year 2024 might remain at the amount set in section 102 if full-year funding that equaled the amounts provided in the CAA, 2024 and in the current continuing resolution was enacted after April 30, unless future laws reversed the sequestration order.

Honorable Jody Arrington and Honorable Brendan F. Boyle

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I hope this information is useful to you. If you wish further details on this analysis, we would be pleased to provide them.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip L. Swagel", with a long, sweeping flourish extending to the right.

Phillip L. Swagel
Director

cc: Honorable Mike Johnson
Speaker
U.S. House of Representatives

Honorable Hakeem Jeffries
Democratic Leader
U.S. House of Representatives