



# Congressional Enactment



TOPIC LEARNING OBJECTIVES

- Upon successful completion of this topic, the student will be able to:
- 1. Recognize that all funds are generated by an appropriations bill.
  - 2. Recognize and define the following terms: budget, budget authority, obligation, outlay, appropriation, authorization.
  - 3. Recognize the players and processes involved in allocating budget authority to the services, acquisition commands, and program offices.
  - 4. Identify the roles of the House Armed Services, Senate Armed Services, and House and Senate Appropriations Committees.
  - 5. Recognize the definition of a continuing resolution.
  - 6. Recognize the restrictions for operating under a continuing resolution.
  - 7. Recognize the appeal process rules for an authorization and appropriation.

STUDENT PREPARATION

- Student Support Material
- 1. None
- Primary References
- 1. Budget and Impoundment Control Act of 1974 (Public Law 93-334)  
<https://www.congress.gov/bill/93rd-congress/house-bill/7130>
- Additional References
- 1. <https://www.cbo.gov>
  - 2. DAU BFM 0060 Congressional Enactment  
<https://www.secnav.navy.mil/fmc/fmb/Pages/Fiscal-Year-2022.aspx>



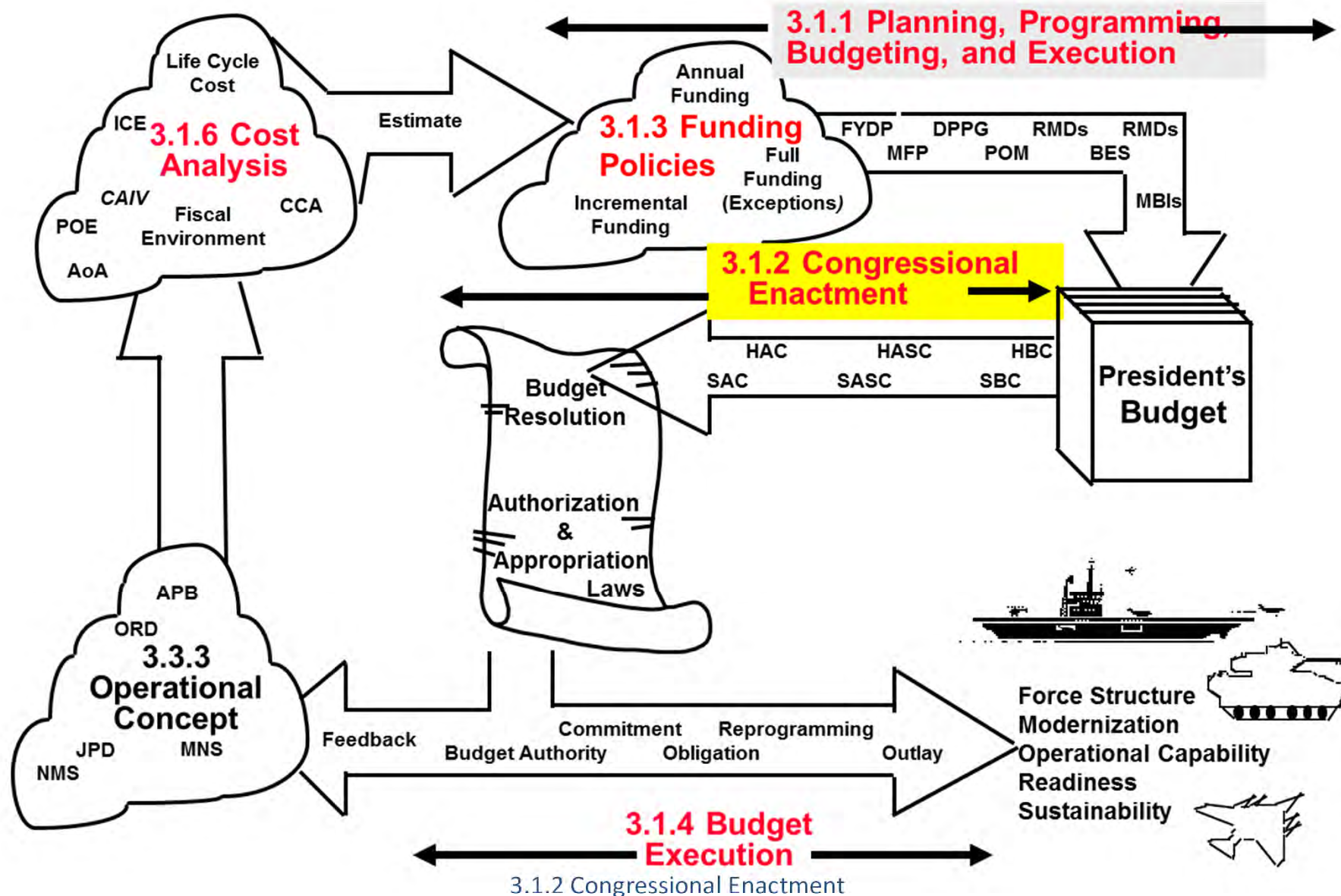
# Review Quiz

---

- What is the component of the FYDP that contains resources necessary to achieve an objective or plan and reflects a macro-level force mission or a support mission of the DoD
- Who signs the Defense Planning Guidance (DPG)?
- Who submits a Program Objective Memorandum (POM) and a Budget Estimate Submission (BES)?



# From Requirement to Capability





# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution






# Constitutional Basis for Appropriations

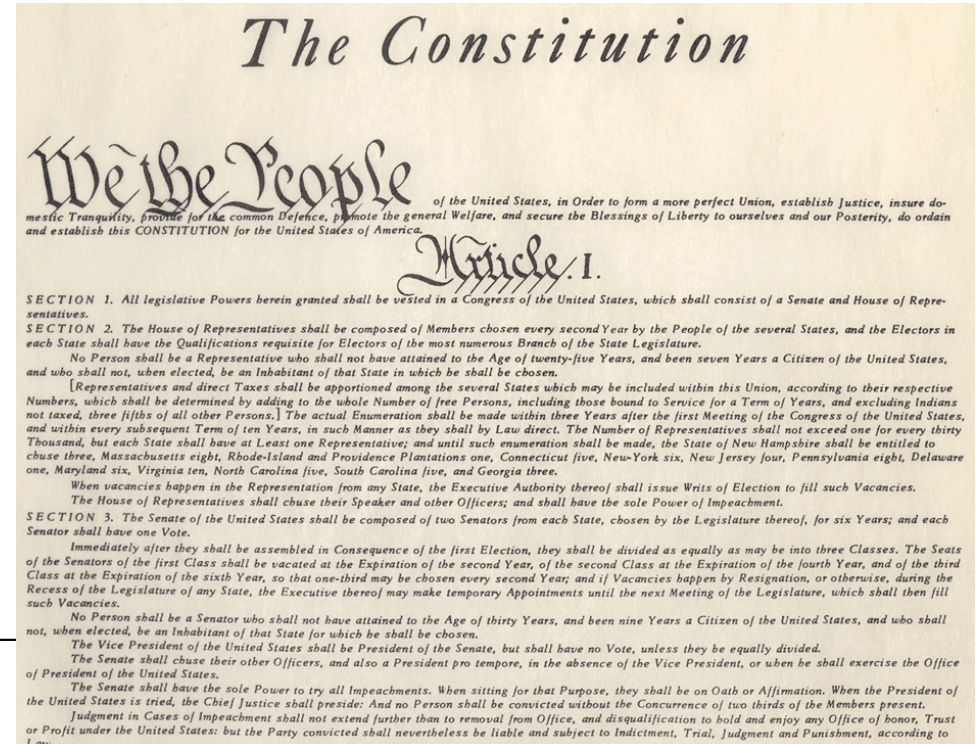
- U.S. Constitution - Article 1
  - Section 8: “The Congress shall have power to... provide for the Common Defense... and general welfare...”
  - Section 9: “No money shall be drawn from Treasury, but in consequence of Appropriations made by law...”

ap·pro·pri·a·tion

/əˌprɒprɪˈeɪʃ(ə)n/ 

noun

1. the action of taking something for one's own use, typically without the owner's permission.  
"the appropriation of parish funds"
2. a sum of money or total of assets devoted to a special purpose.



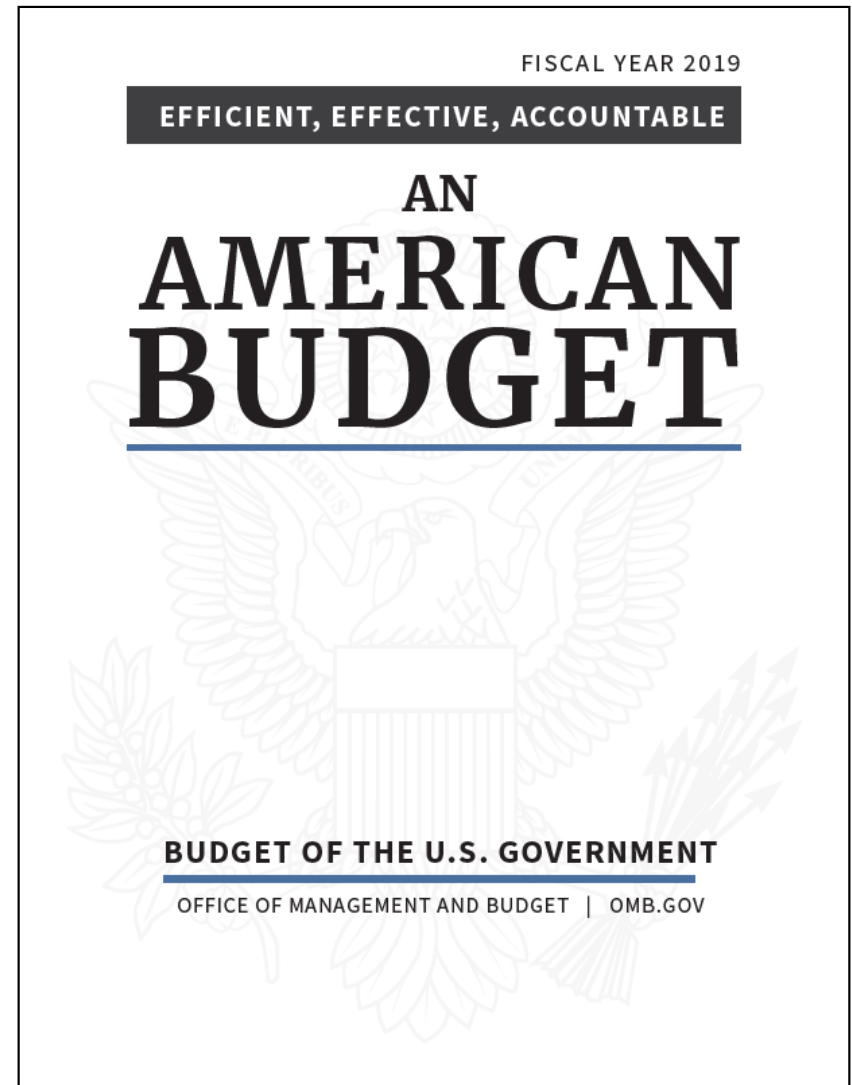
All funding to operate the Federal Government is “appropriated” by Appropriations Acts



# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution







# Budget Definitions

---

- Budget Authority (BA)
  - The value of annual new legal authority to incur obligations (enter into contracts involving expenditures of funds) from the Treasury
  - Budget authority is provided by appropriation
- Total Obligation Authority (TOA)
  - The value of the direct defense program for each fiscal year
  - Includes all budget authority granted by Congress, regardless of fiscal year, appropriated and amounts authorized to be credited to a specific fund
- Obligation
  - A liability incurred by the Government such as a signed contract for goods or services
- Outlays
  - Liquidations of obligations when checks are issued or cash is disbursed causing a drain to U.S. Treasury
- Legislative Proposal (LEGPROP)
  - Mechanism used by DoD to propose changes to a law
    - i.e., when a law does not support the mission, DoD can submit a LEGPROP to change it



# Budget Definitions

## ■ Authorization

- A statute that provides DoD legal **authority to do something**
  - e.g., procure a ship or conduct operations
  - Authority to establish, continue, or modify programs
- Sets spending ceilings for programs but does **not** provide funding
- Drafted by the House and Senate Armed Services Committees (HASC/SASC)

## ■ Appropriation

- A statute that provides **budget authority** for federal agencies (for discretionary spending)
  - Legal authority to incur financial obligations and to make payments out of the treasury for specified purposes
- Drafted by the House and Senate Appropriation Committees (HAC/SAC)

*Defense programs must have **authorization** to carry out their activities and **appropriated funding** to pay for them (provided separately)*



# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution



# Personal vs Professional Staff Members

---

- Personal Staff
  - Employees of individual members of Congress
  - Hired, fired, and paid by each member
  - Provide constituent support services
  - Support the member with expert knowledge in the areas in which the member has interest, including committees
  - Limited interaction with DoD
  
- Professional Staff Members (PSMs)
  - Support each of the committees/subcommittees
  - Majority PSMs hired and fired by committee chairpersons and Minority PSMs by Ranking Minority members
  - Review their portion of the President's Budget down to the program element
  - Congress's primary interface with DoD
    - Program Managers (PMs) have direct engagement with PSMs

*PSMs have **profound** influence on the Authorization and Appropriations Bills*





# Congressional Roles and Responsibilities

---

- Government Accountability Office (GAO)
  - Serves as Congress's chief investigator, auditor, and program evaluator
  - Examines Agency Financial Operations, Federal Program Performance, & the Economy & Efficiency of Governmental Operations
  - One of the most visible aspects of Congressional oversight
- Congressional Budget Office (CBO)
  - Supports the Budget Committees, the Appropriations Committees, and the revenue Committees to establish national priorities and budget policy
  - Perform analytical and economic reviews of the President's Budget, revenues & outlays
- Congressional Research Service (CRS)
  - Provides Congress with data and analytical assistance
  - Allow Congress members access to confidential, impartial, and tailor-made information in response to immediate and short-term needs



# Congressional Roles and Responsibilities

---

- House/Senate Budget Committees (HBC/SBC)
  - Responsible for crafting the annual Budget Resolution
- House Armed Services/Senate Armed Services Committees (HASC/SASC)
  - Responsible for crafting the annual National Defense Authorization Bill
- House/Senate Appropriations Committees (HAC/SAC)
  - Responsible for the crafting of the annual Appropriations Bills for the Federal Government
- Conferences
  - Joint House/Senate meetings to reconcile differences between similar measures
  - The Speaker of the House and the Senate Majority Leader appoint members



# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution



# Congressional Enactment Process

## Major Steps

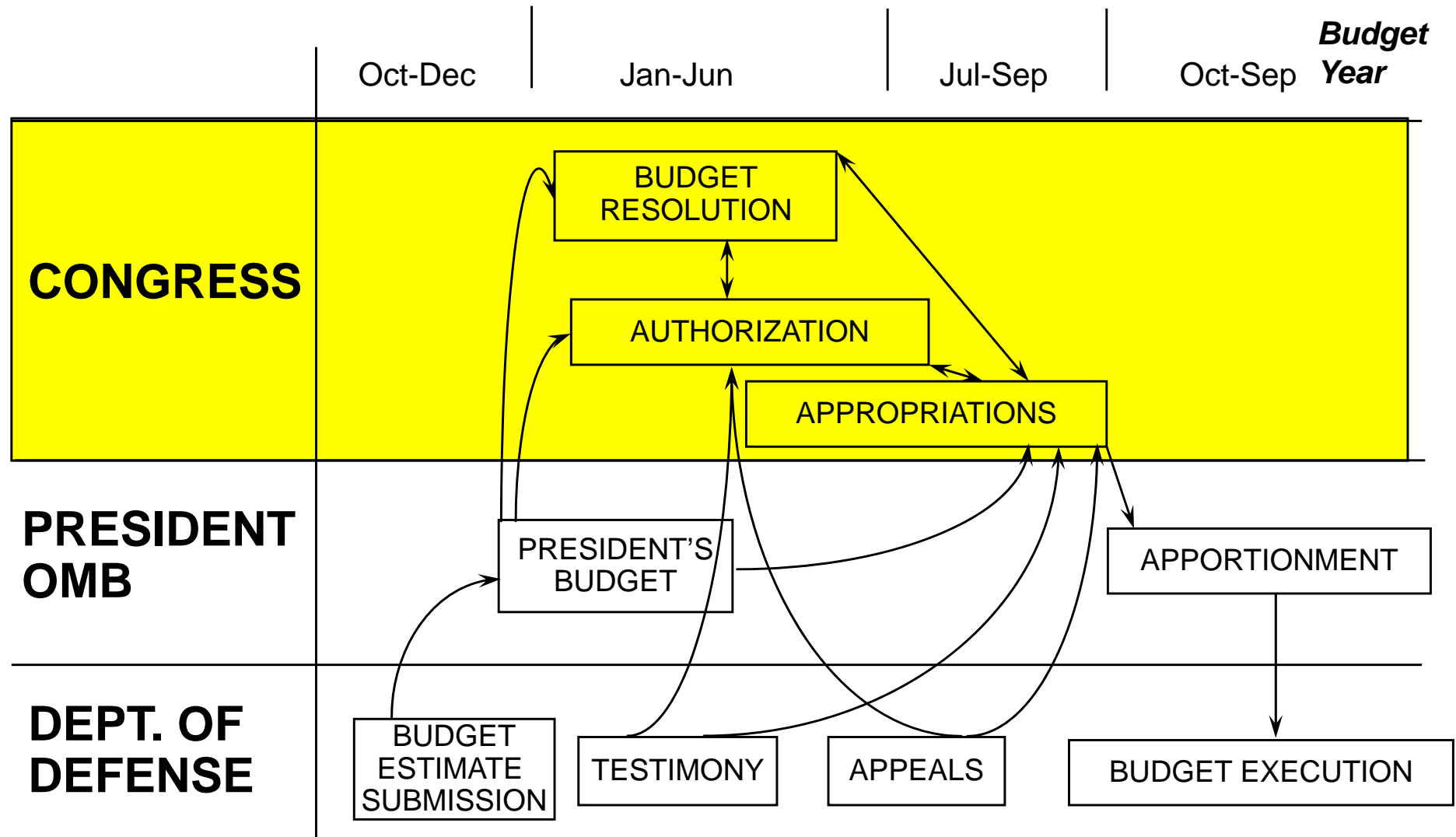
---

- Budget Resolution
  - Overall blueprint for the Congressional budget process: sets “top line” spending ceilings for each of the 20 major Government functions (e.g., National Defense 050)
- Authorization Act
  - Provides program approval, procurement quantities, military end strength, funding ceilings for programs, and policy updates
  - Also called the National Defense Authorization Act (NDAA)
- Appropriations Act
  - Provides budget authority – legal authority to spend \$\$\$\$



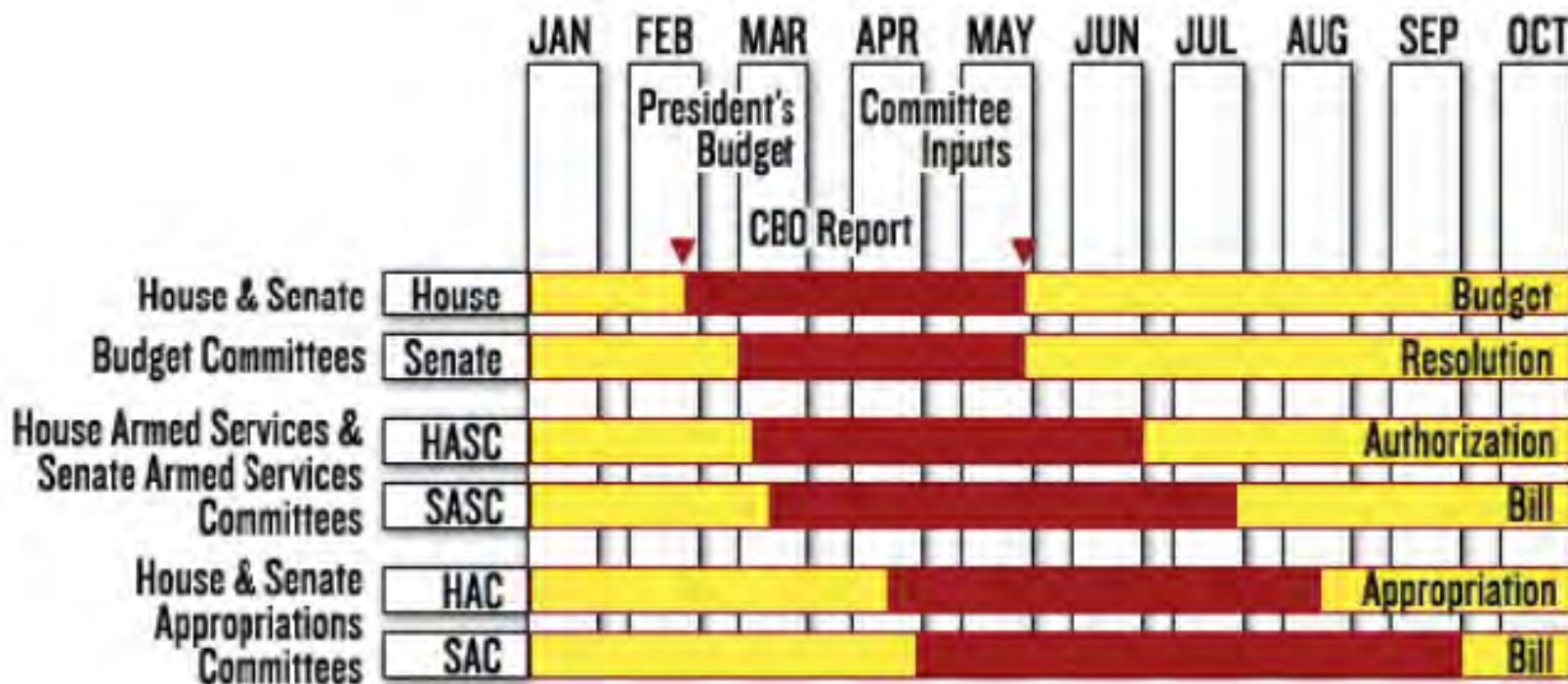


# Congressional Enactment Timeline



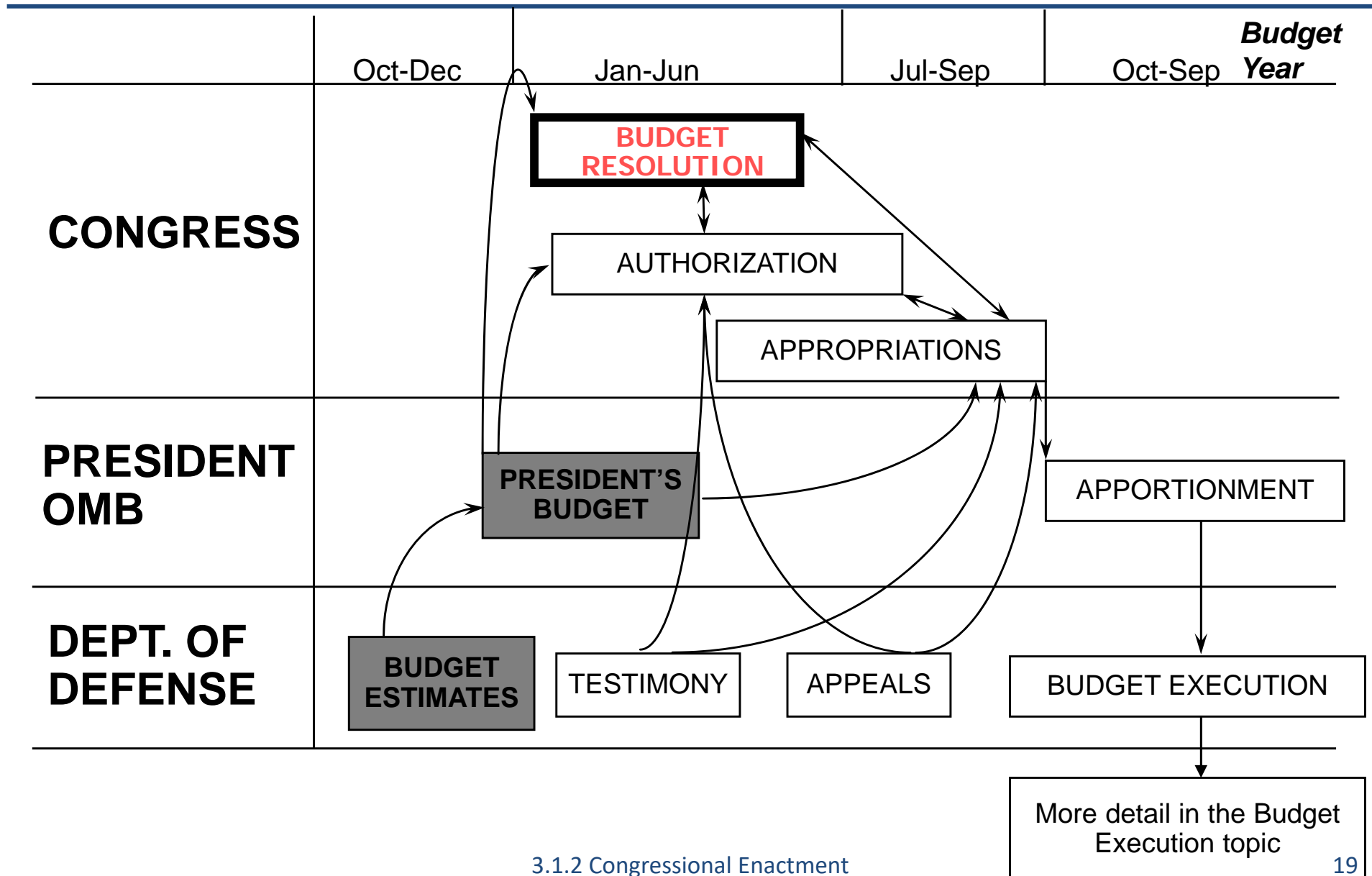


# Congressional Enactment Timeline





# Congressional Enactment Process





# Budget Resolution

- Drafted by the House and Senate Budget Committees
- Process established by Budget Impoundment and Control Act of 1974
- Sets spending ceilings of 20 major Government functions for the authorizers and appropriators in anticipation of expected revenue levels
- Budget Resolution is not law
  - Independent of President's Budget
  - Authorization & Appropriation committees expected to follow guidelines

Union Calendar No. 172  
115TH CONGRESS  
1ST SESSION  
**H. CON. RES. 71**  
[Report No. 115-240]

Establishing the congressional budget for the United States Government for fiscal year 2018 and setting forth the appropriate budgetary levels for fiscal years 2019 through 2027.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2017

Mrs. BLACK, from the Committee on the Budget, reported the following concurrent resolution; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

## CONCURRENT RESOLUTION

Establishing the congressional budget for the United States Government for fiscal year 2018 and setting forth the appropriate budgetary levels for fiscal years 2019 through 2027.

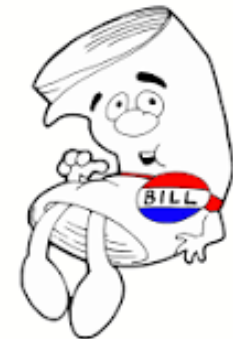
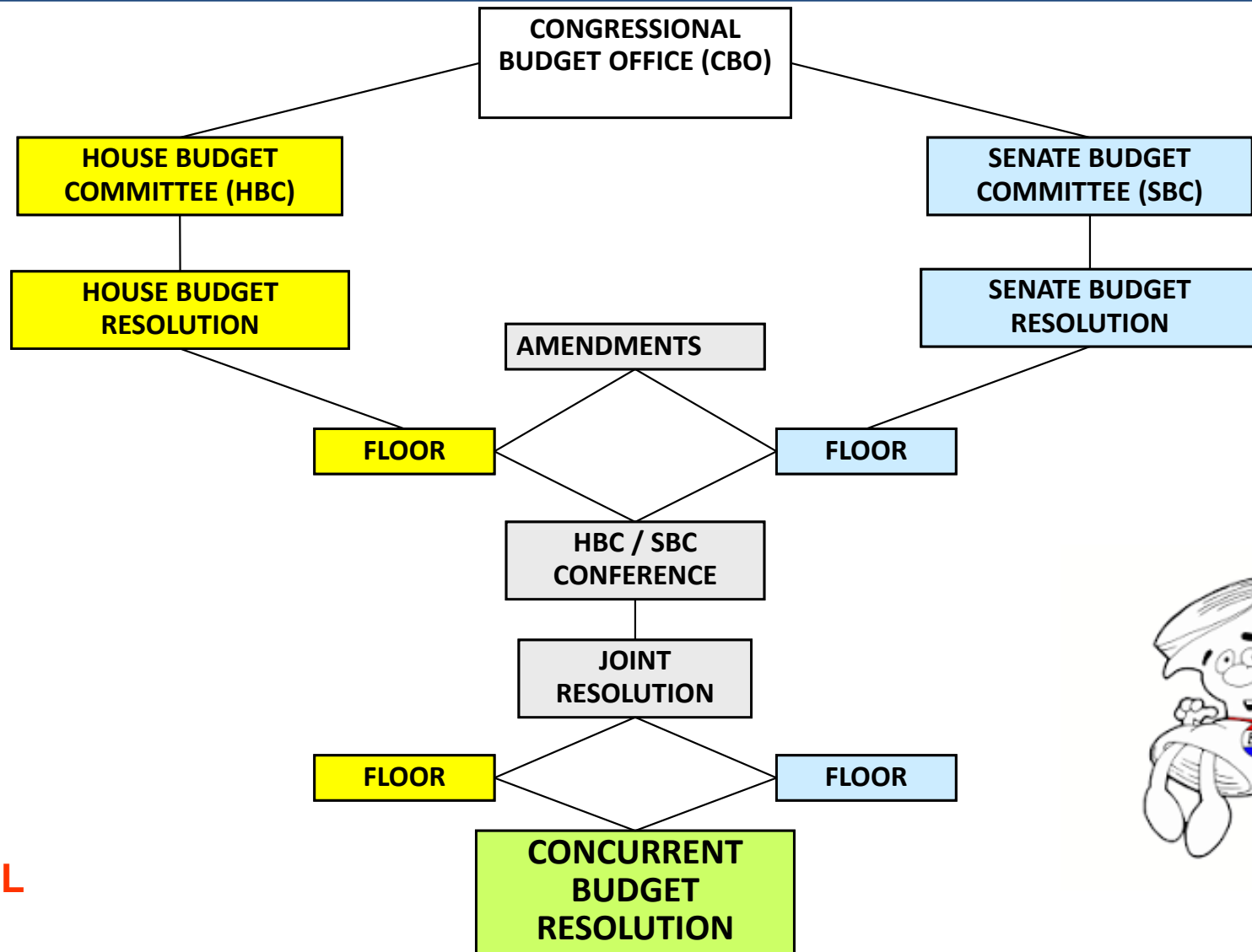
1 *Resolved by the House of Representatives (the Senate*  
2 *concurring),*





# Budget Resolution Process

**FEB**



**15 APRIL**



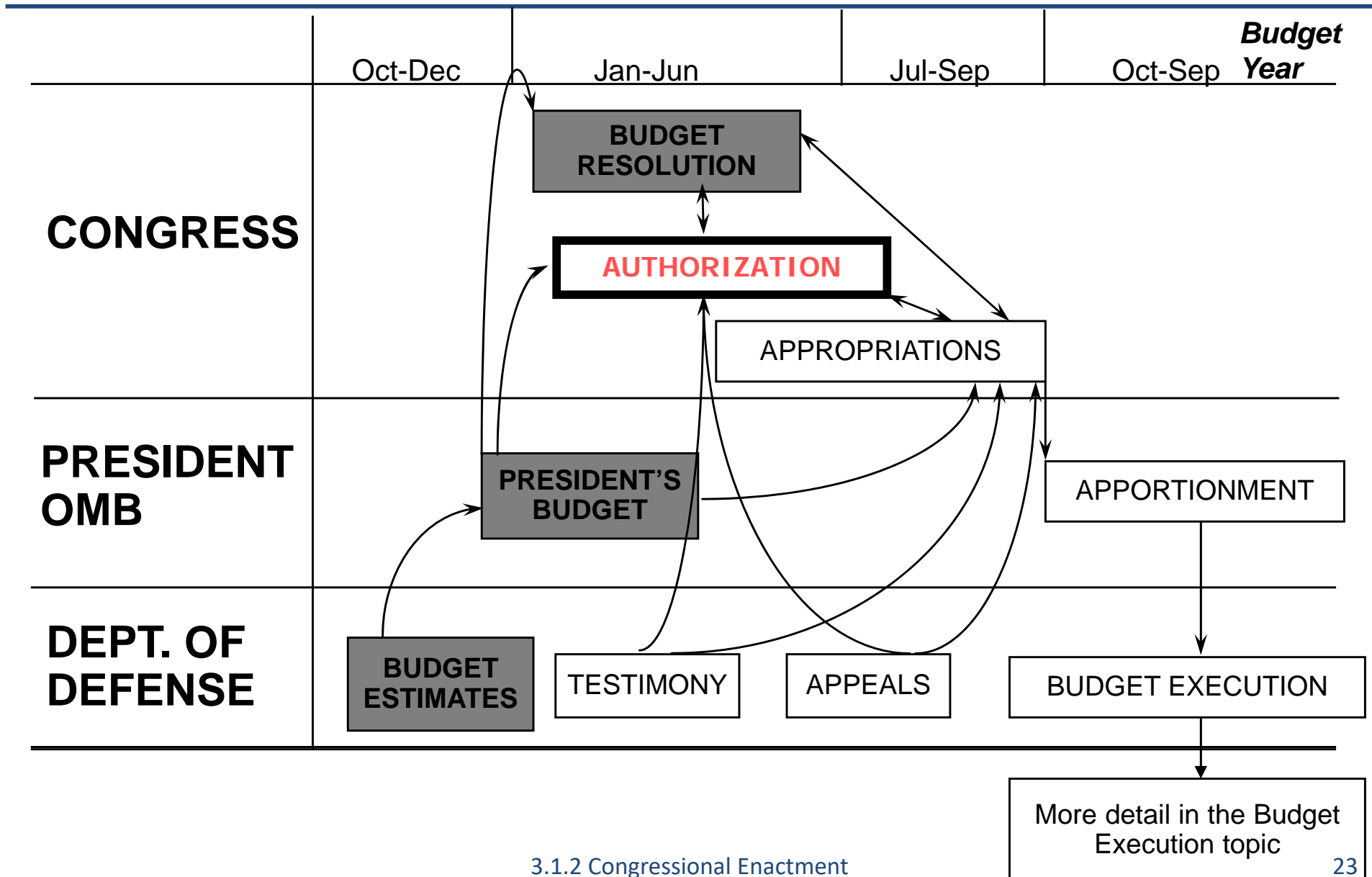
# Budget Resolution

---

- Congressional Budget Office (CBO) issues guidance to the HBC and SBC
- HBC and SBC develop their versions of Resolution
- House & Senate chambers review, debate, and pass their versions of Resolution
- HBC/SBC Conference
  - Iron out differences—Conferences are only held on the differences
  - Output: Concurrent Budget Resolution
- Return to respective floors for vote
- Approved/Passed Budget Resolution
  - Goal: NLT 15 APR
  - Spending ceilings—Each appropriation
  - Resolution is not law



# Congressional Enactment Process





# Authorization

- Called National Defense Authorization Act (NDAA)
- Drafted by House and Senate Armed Services Committees (HASC and SASC)
- Allows programs to be established or continue (or discontinue)
- Provides authorization for each DoD appropriation account
- Annual Authorization Law provides:
  - Program approval
  - Procurement quantities
  - Personnel end strength
  - Funding ceilings for individual programs
  - Policy - Including acquisition policy

## One Hundred Fifteenth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,  
the third day of January, two thousand and seventeen*

### An Act

To authorize appropriations for fiscal year 2018 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2018”.

#### SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding Tables.

(b) TABLE OF CONTENTS.—The table of contents for this Act





# Authorization Subcommittees

---

## ■ HASC subcommittees

- Tactical Air and Land Forces
- Military Personnel
- Oversight and Investigations
- Readiness
- Seapower and Projection Forces
- Strategic Forces
- Emerging Threats and Capabilities

## ■ SASC subcommittees

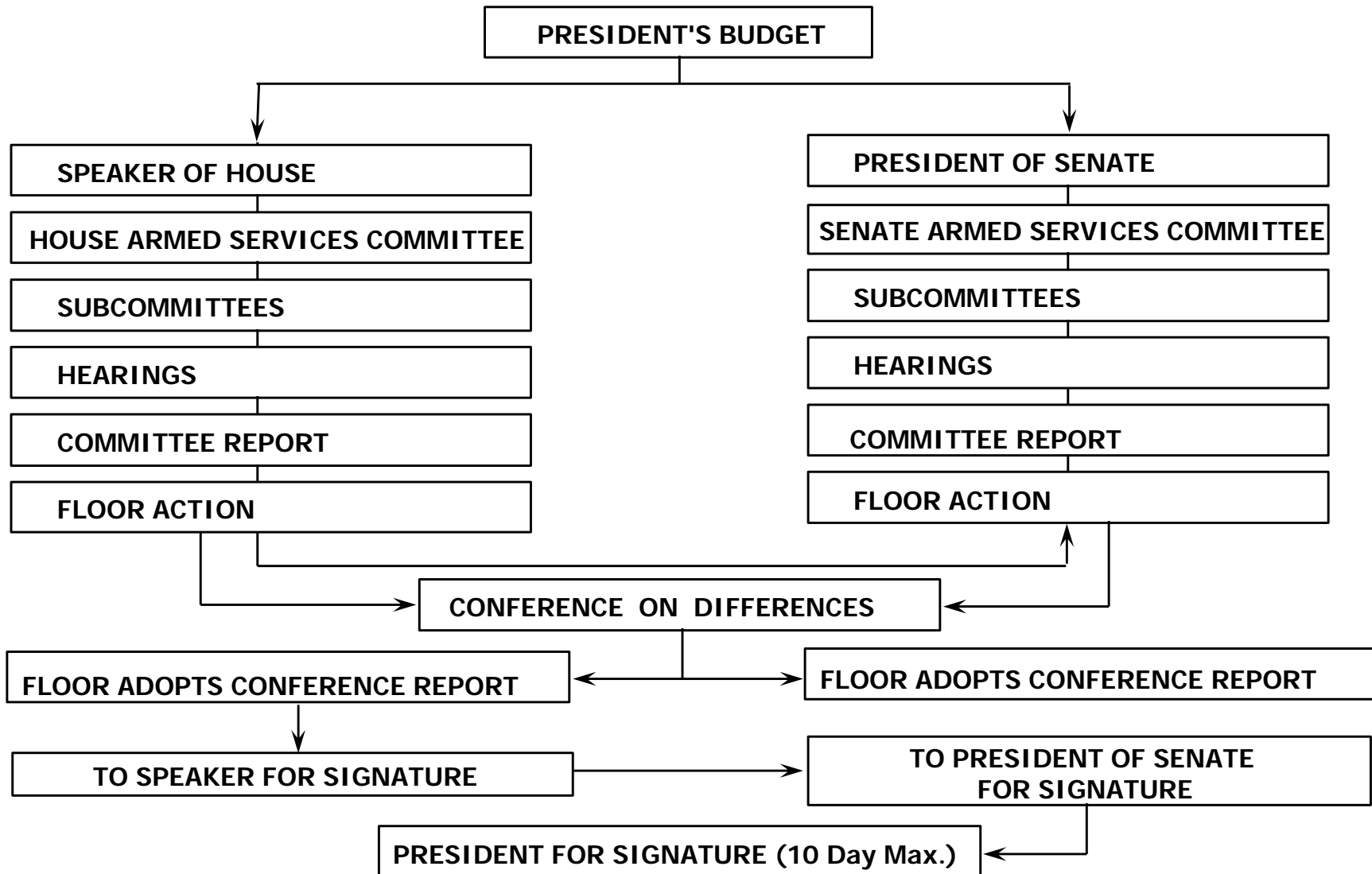
- Cybersecurity
- Emerging Threats and Capabilities
- Personnel
- Readiness and Management Support
- Seapower
- Strategic Forces

<https://armedservices.house.gov/subcommittees>

<http://www.armed-services.senate.gov/about/subcommittees>

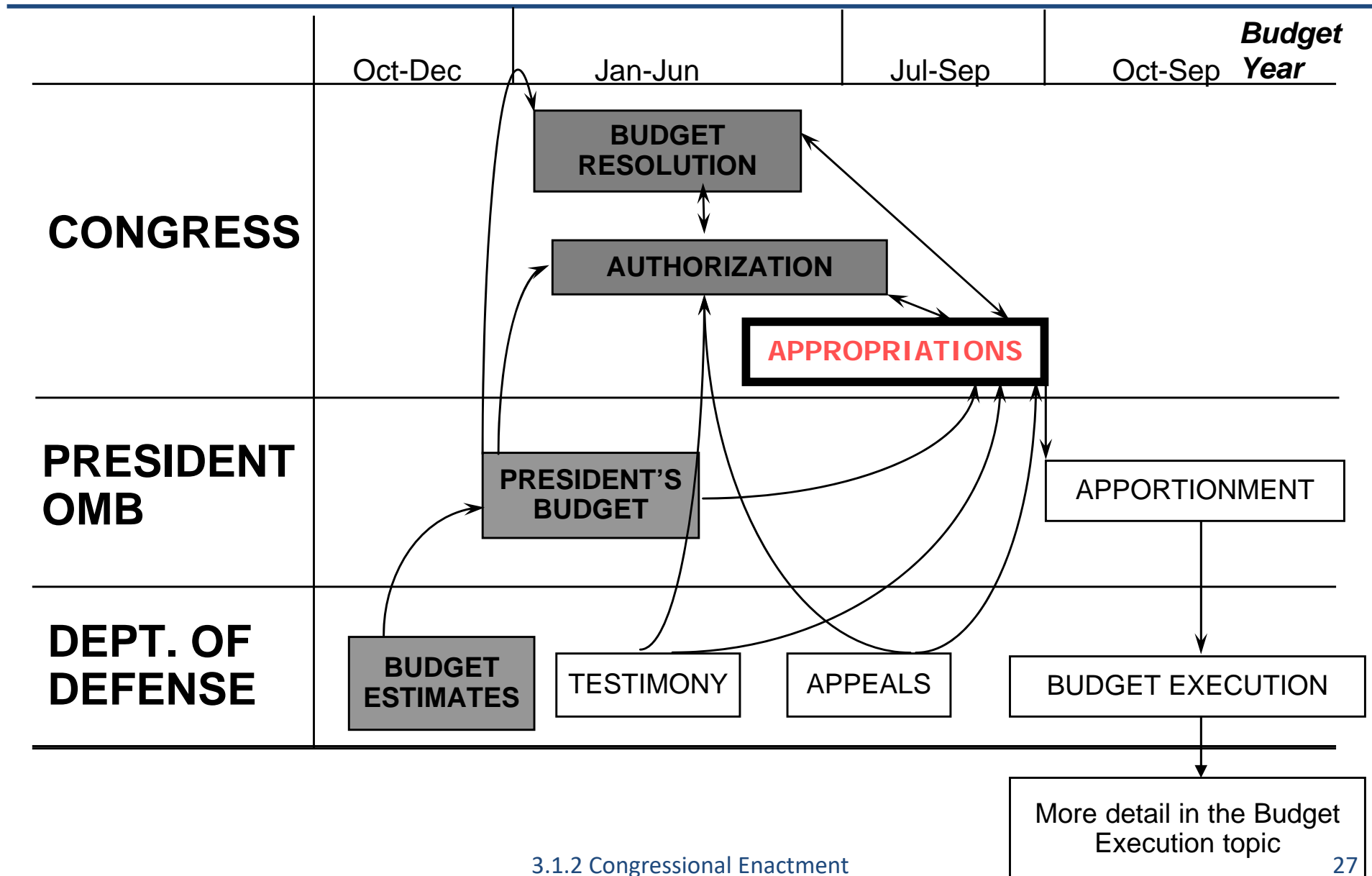


# Defense Authorization Bill Process





# Congressional Enactment Process





# Appropriations

- Appropriations Committees:  
House/Senate Appropriations Committee (HAC/SAC)
- 12 annual Appropriations Bills passed by Congress each fiscal year
- To provide budget authority to operate the Federal Government
  - Each Appropriations Bill has its own sub-committee
  - Sometimes Appropriations Bills are combined into consolidated or omnibus bills for political reasons
- Hearings kick-off in the March timeframe
- Appropriations Committees should follow Authorizing Committees' guidance

\* Public Law 115-31  
115th Congress

## An Act

Making appropriations for the fiscal year ending September 30, 2017, and for other purposes.

May 5, 2017  
[H.R. 244]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Consolidated  
Appropriations  
Act, 2017.

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Consolidated Appropriations Act, 2017”.

### SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.  
Sec. 2. Table of contents.  
Sec. 3. References.  
Sec. 4. Explanatory statement.  
Sec. 5. Statement of appropriations.  
Sec. 6. Availability of funds.  
Sec. 7. Technical allowance for estimating differences.  
Sec. 8. Correction.

#### DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017

Title I—Agricultural Programs  
Title II—Conservation Programs  
Title III—Rural Development Programs  
Title IV—Domestic Food Programs  
Title V—Foreign Assistance and Related Programs  
Title VI—Related Agency and Food and Drug Administration  
Title VII—General Provisions

#### DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017

Title I—Department of Commerce  
Title II—Department of Justice  
Title III—Science  
Title IV—Related Agencies  
Title V—General Provisions

#### DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2017

Title I—Military Personnel  
Title II—Operation and Maintenance  
Title III—Procurement  
Title IV—Research, Development, Test and Evaluation  
Title V—Revolving and Management Funds  
Title VI—Other Department of Defense Programs  
Title VII—Related Agencies  
Title VIII—General Provisions  
Title IX—Overseas Contingency Operations/Global War on Terrorism  
Title X—Department of Defense—Additional Appropriations



# HAC/SAC Subcommittees

---

- Agriculture, Rural Development, Food and Drug Administration
- Commerce, Justice, Science
- **Defense**
- Energy and Water Development
- Financial Services and General Government
- Homeland Security
- Interior, Environment
- Labor, Health and Human Services, Education
- Legislative Branch
- **Military Construction, Veterans Affairs**
- State, Foreign Operations
- Transportation, Housing and Urban Development

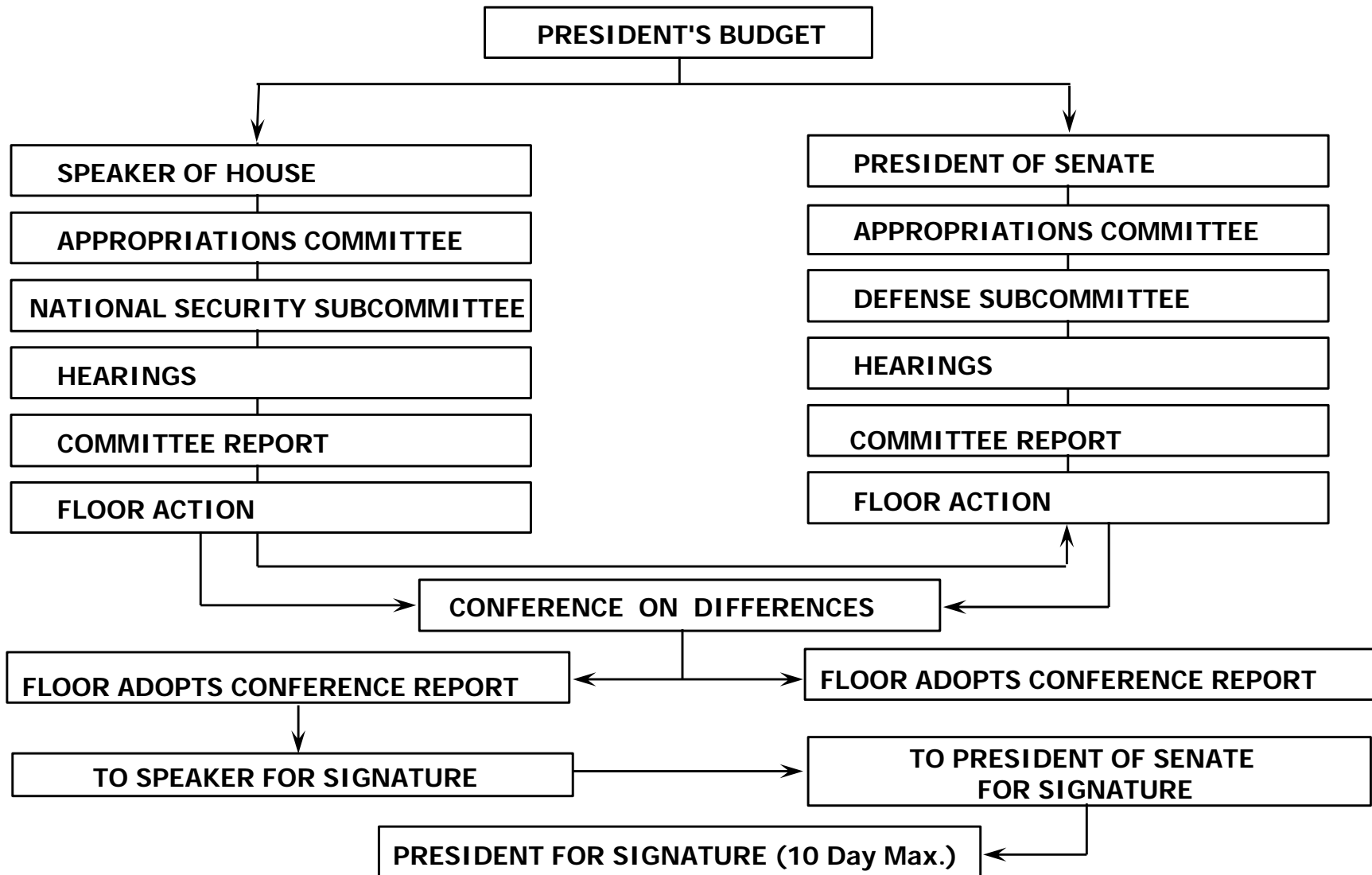
<http://appropriations.house.gov>

<http://www.appropriations.senate.gov>

*Most Navy interaction is with Defense Subcommittees “HAC-D”, “SAC-D”*



# Legislative Process







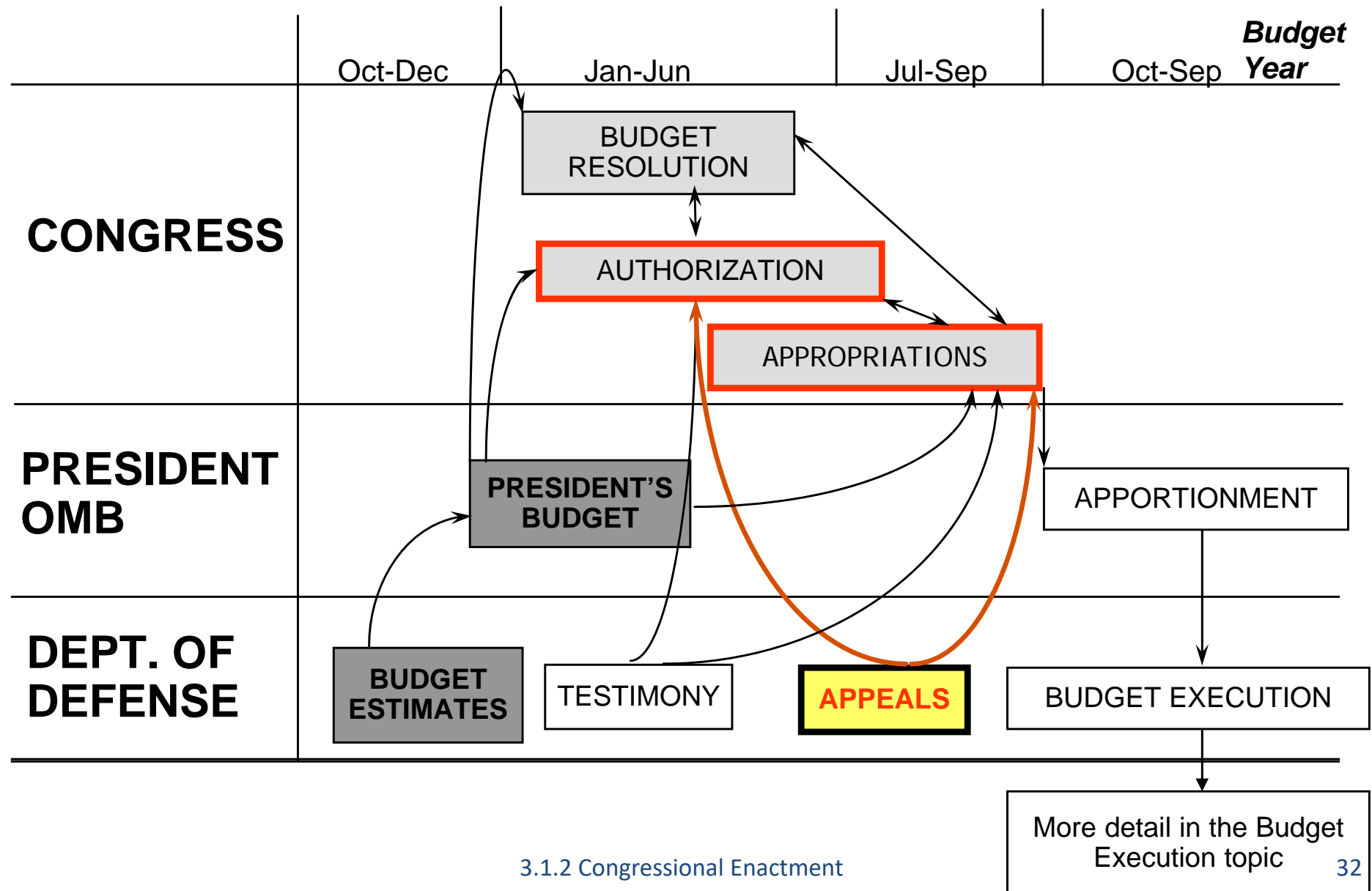
# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution



# Congressional Enactment Process





# Appeals to Congressional Marks

## General Rules Between Congress and DoD

---

- An appeal is a request for reconsideration of an action taken to adjust, reduce, or delete funding for an item during the Congressional review of the Defense budget (Authorization and Appropriation)
  - Source: DoD 7000.14-R Financial Management Regulation, Vol 2A, Chapter 1, Section 010107. B. 3
  - Marks can be to dollars, quantities, manpower, and/or language
- Appeal to next Committee of that phase considering the budget request (e.g., appeal to the SASC, SAC and/or the appropriate conference committee)
- Appeal to dollar amount closest to President's approved position (i.e., President's Budget)
  - Not a hard and fast policy, but generally followed
- Appeals are made to the higher dollar amount contained in the two prior Congressional marks (unless it exceeds the President's position)



# Appeals Process Example

[Assume President's Budget = \$100 M]

## AUTHORIZATION

	MARK
HASC	\$ <u>90</u> M
Appeal to:	<b>SASC</b> \$ <u>100</u> M
SASC	\$ <u>95</u> M
Appeal to:	<b>Auth C.C.</b> \$ <u>95</u> M
AUTH BILL:	\$ <u>93</u> M

## APPROPRIATION

	MARK
HAC	\$ <u>92</u> M
Appeal to:	<b>SAC</b> \$ <u>100</u> M
SAC	\$ <u>90</u> M
Appeal to:	<b>Appn C.C.</b> \$ <u>92</u> M
APPN BILL:	\$ <u>92</u> M

### Rules:

- (1) Appeal to **SASC, SAC & Conference Committees (C.C.)**
- (2) Appeal prior two positions
- (3) Appeal amount closest to President's Budget



# Sample Appeal

## Priority Department of Defense Budgetary Appeal FY 2010 Defense Appropriations Bill

**Subject:** Standard Missile - 6 (SM-6)

**Appeal Citation:** H.R. 3326; H.Rpt. 111-230 p. 157 (8)

**Appropriations:** Weapons Procurement, Navy

**Summary:** The House reduced the request by \$117.63 million based on concern that the SM-6 contract award will likely slip into FY2010.

### Budget Authority (Dollars in Millions)

<u>Item</u>	<u>Budget</u>	<u>House</u>	<u>Senate</u>	<u>Appeal</u>
SM-6	249.2	131.6	-	249.2

**DoD Position/Impact:** The Department opposes the House reduction because it eliminates production of SM-6 in FY 2010 thereby impacting procurement costs, causing a production delay/break during the Low Rate Initial Production (LRIP) phase and further delaying the Navy's ability to meet Fleet requirements for an extended range air defense weapon by eighteen months to two years.

Milestone C authority was granted on 29 July by the Defense Acquisition Board (DAB). A not-to-exceed (NTE) letter contract update was agreed upon by Raytheon Missile Systems (RMS), with a planned contract award in mid-August 2009. Obligation of funding for the FY 2010 contract option is planned for March 2010.

The acquisition strategy prescribes negotiating LRIP Lot 1 in FY 2009 with priced options for LRIP Lots 2 and 3 to be funded in FY 2010 and FY2011, respectively, ensuring SM-6 is on track to begin delivery of production rounds in 2QFY 2011.

Without FY 2010 funding, completion of LRIP will be delayed 10-13 months, delaying a Full Rate Production decision by at least a year, resulting in a breach of the Acquisition Program Baseline (APB) for schedule. Program strategy for SM-6 included using LRIP rounds to support developmental/operational testing and simultaneous fleet load-out to pace the evolving threat. If the 26 missiles are not procured in FY 2010, SM-6 introduction in the fleet will be delayed from 2013 until approximately 2014-2015.

Since SM-6, SM-2 and AMRAAM share assembly lines, a gap in production will cause requalification of the production line and unplanned support labor costs. In addition to increasing program costs, this will result in further program delays as the Cost Certification review being conducted in support of the Weapons Reform Acquisition Act of 2009 will be delayed to take these cost impacts into account. This could result in a Nunn-McCurdy cost breach of the Acquisition Program Baseline.

The Department urges support of the President's budget request and restoration of full funding to the SM-6 System Development and Demonstration program to preserve the Navy's ability to meet Fleet requirements against a growing threat. The SM-6 Program has been on schedule and within cost estimates since its inception.





# Overview

---

- Congressional Authority and History
- Key Terms
- Congressional Roles and Responsibilities
- Congressional Enactment Process
- Appeals
- Continuing Resolution





# Continuing Resolution (CR)

- Special **stopgap** Appropriations Bills that allow the Government to operate for limited time with limited funds
  - Used when an annual Appropriation cannot be passed before the expiration of the previous appropriation
- Typical rules:
  - Normally does not specify dollar amounts of budget authority—permits activities to operate at "the current rate of operations"
  - Services request funds (short term)
  - New programs **cannot** start work\*
  - Funding limited to last year's levels or this year's Congressional committee levels

\* Congressional special interest programs may receive specific direction (**Shipbuilding is different**)

Public Law 115–56  
115th Congress

## An Act

Making continuing appropriations for the fiscal year ending September 30, 2018,  
and for other purposes.

Sept. 8, 2017  
[H.R. 601]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Continuing Appropriations Act,  
2018 and Supplemental Appropriations for Disaster Relief Require-  
ments Act, 2017”.

### SEC. 2. TABLE OF CONTENTS.

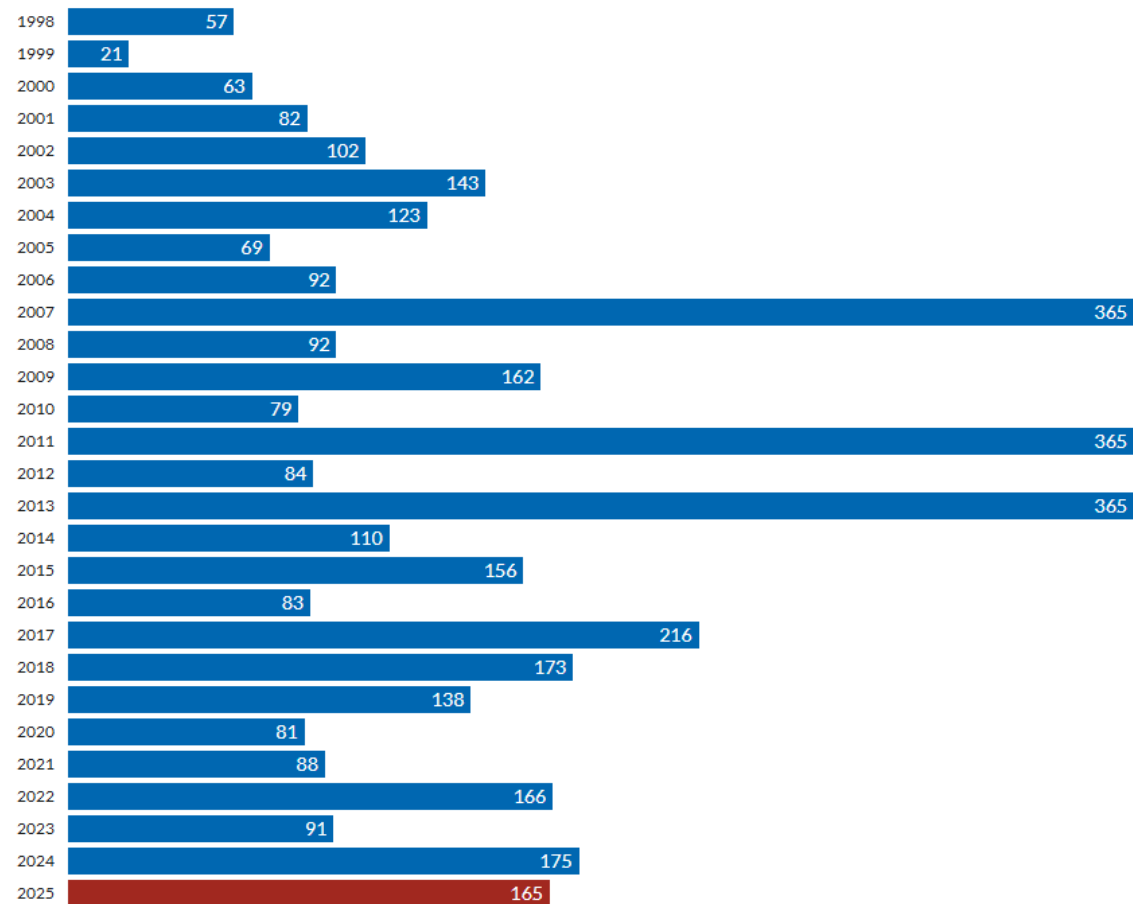
Continuing  
Appropriations  
Act, 2018 and  
Supplemental  
Appropriations  
for Disaster  
Relief  
Requirements  
Act, 2017.



# History of CRs

## Lawmakers increasingly use continuing resolutions to fund the government for longer periods

Duration of Continuing Resolutions Each Fiscal Year (Days)



Source: Congressional Research Service • [Embed](#) • [Download image](#)

Note: Data are from a [report](#) and the [appropriations status table](#). For Fiscal Year 2025, the duration of the continuing resolution that provides funding through March 14, 2025, unless all appropriation bills are passed prior to the date, is visualized.



# Example FY 2018 Continuing Appropriations Act

---

## **DIVISION D—CONTINUING APPROPRIATIONS ACT, 2018**

Continuing  
Appropriations  
Act, 2018.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2018, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2017 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this Act, that were conducted in fiscal year 2017, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

Rate reduction.

(b) The rate for operations provided by subsection (a) is hereby reduced by 0.6791 percent.





# Example FY 2018 Continuing Appropriations Act

---

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for: (1) the new production of items not funded for production in fiscal year 2017 or prior years; (2) the increase in production rates above those sustained with fiscal year 2017 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item that includes a program element and subprogram element within an appropriation account)

SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2017.



# Impacts of Continuing Resolutions

---

- Apportionment of funds more restrictive
  - Agencies not able to obligate an entire year's worth of funding during the CR
  - Rates of obligation are usually limited and may impede planned ramp-up of program efforts
- Interferes with PPBE processes and program schedules (i.e., cost and schedule risk)



# Sequestration

---

- Sequestration refers to automatic spending cuts that occur through the withdrawal of funding for certain (but not all) government programs
- Congressional Budget Office (CBO) provides estimates of the statutory caps on discretionary funding and an assessment of whether sequestration might be necessary under current budgetary rules
- Administration's Office of Management and Budget (OMB) makes the ultimate determination of whether a sequestration is necessary and, if so, how big it should be





# Summary

---

- What is the purpose of the three steps of Congressional Enactment?
  - Budget Resolution
  - Authorization
  - Appropriations
- What is the purpose of the House and Senate Appropriations committees?
- What is the purpose of a Continuing Resolution?