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Sequestration Procedures Under the 1985 Balanced Budget Act

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Summary

The sequestration process, which involves automatic, largely across-the-board spending reductions made toward the beginning of the fiscal year, was established under the Balanced Budget and Emergency Deficit Control Act of 1985 as a means of enforcing deficit targets. The Budget Enforcement Act of 1990 amended the 1985 act to supersede the deficit targets with two new enforcement mechanisms—limits on discretionary spending (*i.e.*, spending controlled through the annual appropriations process) and a “pay-as-you go” (PAYGO) requirement applicable to legislation affecting direct spending (*i.e.*, spending controlled outside of the annual appropriations process) and revenues. The discretionary spending limits and PAYGO requirement have been revised and extended (affecting legislation enacted through FY2002) in recent years by such measures as the Budget Enforcement Act of 1997, the Transportation Equity Act for the 21st Century, and the Interior Appropriations Act for FY2001.

As a general rule, the enforcement procedures for the discretionary spending limits, on the one hand, and the PAYGO requirement, on the other, are separated by a “firewall.” Violations of the discretionary spending limits are remedied by reductions only in discretionary programs; PAYGO violations are corrected by reductions solely in direct spending programs. Further, savings made on one side of the firewall generally cannot be used to the advantage of programs on the other side.

The current sequestration procedures are automatic and are triggered by a report from the OMB director. For sequestration purposes generally, there is only one triggering report issued each year (just after the end of the congressional session), but a “within-session sequester” may occur in the following session (*e.g.*, if the enactment of one or more supplemental appropriations measures causes a breach in the limits). Spending for many programs is exempt from sequestration and reductions in certain programs are limited under “special rules.”

During the 16 years that sequestration has been in effect (prior to the FY2002 budget cycle), sequesters have been triggered five times. The first three sequesters occurred during the 5-year period when deficit targets were in effect, covering FY1986-1990. During the remaining 11 years, sequestration has applied to the enforcement of the discretionary spending limits and PAYGO requirement. Two sequesters under the discretionary spending limits occurred for FY1991 and no PAYGO sequester has ever occurred. Initial outlay savings associated with the three deficit target sequesters ranged from \$11.7 billion to \$20.0 billion, but some of these savings were reduced or rescinded later.

During the 2000 session, Congress and the President enacted provisions to prevent a sequester under the discretionary spending limits for FY2000 and a PAYGO sequester for FY2001. The FY2000 sequester would have necessitated a reduction in outlays for discretionary spending of \$6.8 billion; the FY2001 sequester would have required a cut in direct spending outlays of \$10.5 billion.

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Sequestration Procedures Under the 1985 Balanced Budget Act

Sequestration is a procedure under which automatic reductions are made in spending programs if specified budgetary goals are not met. Initially, sequestration enforced a series of annual deficit targets intended to lead to a balanced budget. After 5 years' experience with sequestration, its focus was changed to the enforcement of discretionary spending limits and a pay-as-you-go (PAYGO) requirement for direct spending and revenue legislation. Sequestration procedures currently are slated to expire at the end of FY2002, but President Bush has recommended their renewal and Congress is examining its options regarding the matter.¹ This report reviews the origin and development of the sequestration process, describes sequestration procedures, and summarizes the history of sequesters from FY1986 through FY2001.

Origin and Development of the Sequestration Process

More than a quarter-century ago, Congress established its current budget process under the Congressional Budget and Impoundment Control Act of 1974.² Implementation of the 1974 Congressional Budget Act focuses on the annual adoption of a concurrent resolution on the budget.³ The annual budget resolution serves as a guide for House and Senate action each session on revenue legislation, measures increasing the debt limit, annual appropriations acts, and other spending measures. As originally framed, budget resolutions were not developed within any predetermined constraints, such as the allowable size of the deficit. Instead, the House and Senate determined appropriate budgetary levels each year through its action on budget resolutions. Budget resolution policies were enforced primarily by means of points of order that could be raised during the consideration of legislation.

¹ President Bush recommended the extension of the discretionary spending limits and the PAYGO requirement in his April 2001 budget submission: U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2002, Analytical Perspectives* (Washington: 2001), see the sequestration preview report on pages 243-251. The House Budget Committee held hearings, entitled "Forthcoming Extension/Modification of the Budget Enforcement Act," on June 27, 2001.

² The 1974 Congressional Budget Act was enacted on July 12, 1974, as P.L. 93-344. It has been amended extensively over the years and is codified at 2 U.S.C. 621 *et. seq.*

³ The 1974 Congressional Budget Act originally required House and Senate action on two budget resolutions each year. Beginning with FY1983, Congress abandoned the practice of adopting more than one budget resolution each year. For more information on this topic, see: U.S. Library of Congress, Congressional Research Service, *Congressional Budget Resolutions: Selected Statistics and Information Guide*, by (name redacted), CRS report RL30297 (Washington: September 2, 1999), 37 pages.

1985 Balanced Budget Act. After a decade of experience under the congressional budget process, burgeoning deficit estimates (exceeding \$200 billion), deeply rooted impasses between Congress and President Reagan over major budget policies, and extensive legislative gridlock impelled Congress and the President to strengthen budget enforcement procedures. In December 1985, President Reagan signed into law the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known at that time as the Gramm-Rudman-Hollings Act.⁴

The chief purpose of the 1985 Balanced Budget Act was to gradually eliminate the deficit by requiring adherence to a series of fixed deficit targets, beginning at \$171.9 billion for FY1986 and declining to zero by FY1991.⁵ *Sequestration*, a process involving automatic spending cuts, was established as the means by which the deficit targets would be enforced. Under sequestration, across-the-board spending cuts would be made automatically around the beginning of the fiscal year if needed to keep the estimated deficit within the allowed limits.⁶ As implementation of a required sequester was automatic under these procedures, and perceived to be drastic action, many regarded it as providing a strong incentive for Congress and the President to reach agreement on established budgetary goals through the regular legislative process.

1987 Balanced Budget Reaffirmation Act. Several lawsuits contesting the constitutionality of the 1985 Balanced Budget Act were filed immediately upon its enactment. In February 1986, a special three-judge panel of the U.S. District Court declared that the procedure for triggering sequestration under the act was unconstitutional on the ground that it vested executive power in an officer removable by Congress (sequestration would have been triggered pursuant to a report prepared by the comptroller general, head of the General Accounting Office). The Supreme Court heard arguments in the case, *Bowsher v. Synar* (478 U.S. 714), and issued its ruling on July 7, 1986, affirming the ruling of the District Court by a vote of 7 to 2.

Invalidation by the courts of the automatic triggering mechanism for sequestration, and the size of the estimated deficit excess for FY1988—more than \$50 billion above the applicable deficit target, according to the Congressional Budget Office (CBO), prompted calls for revision of the 1985 Balanced Budget Act. In September 1987, President Reagan signed into law the Balanced Budget and

⁴ The 1985 Balanced Budget Act was enacted on December 12, 1985, as Title II of P.L. 99-177, a measure raising the public debt limit. It has been amended extensively over the years and is codified at 2 *U.S.C.* 901 *et. seq.* The common title derived from the names of the act's three key sponsors, Senators Phil Gramm, Warren Rudman, and Ernest Hollings.

⁵ A discussion of the origin and features of the 1985 Balanced Budget Act (and the 1987 Balanced Budget Reaffirmation Act, discussed below) is presented in: U.S. Library of Congress, Congressional Research Service, *General Management Laws: A Selective Compendium—107th Congress*, (name redacted)(project coordinator), CRS report RL30795 (Washington: January 8, 2001).

⁶ For some fiscal years, a margin-of-error amount (*e.g.*, \$10 billion) was added to the deficit target to determine the amount that would trigger a sequester.

Emergency Deficit Control Reaffirmation Act of 1987.⁷ The main purposes of the 1987 act were to restore the automatic triggering feature of sequestration in a constitutionally acceptable manner, which it did by vesting that authority in the director of the Office of Management and Budget (OMB), and to extend the time frame for achieving a balanced budget by 2 years, until FY1993.

Budget Enforcement Act of 1990 and Related Legislation. Continuing difficulties associated with the use of deficit targets prompted Congress and the President to enact the Budget Enforcement Act (BEA) of 1990, which fundamentally revised the procedures under the 1985 Balanced Budget Act. Although the BEA of 1990 extended the deficit targets through FY1995, it effectively replaced them with statutory limits on discretionary spending (*i.e.*, spending controlled through the annual appropriations process) and a “pay-as-you-go” (PAYGO) requirement applicable to legislation affecting direct spending (*i.e.*, spending controlled outside of the annual appropriations process) and revenues.⁸

Sequestration was retained as the means of enforcing the discretionary spending limits and the PAYGO requirement. The main purpose of these enforcement procedures was to preserve the roughly \$500 billion in deficit savings, covering FY1991-1995, reached in an agreement between President Bush and Congress and implemented in reconciliation and other budgetary legislation.

The discretionary spending limits and PAYGO requirement under the BEA of 1990 have been extended several times and the attendant sequestration procedures have been modified, principally in conjunction with legislation to implement major budget agreements between President Clinton and Congress in 1993 and 1997.

In 1993, the enforcement procedures were modified by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66). Title XIV of the act extended the procedures for three more fiscal years, through FY1998, and made some relatively minor adjustments in procedures. In 1994, Congress established the Violent Crime Reduction Trust Fund under the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322). Title XXXI of the act added separate sequestration procedures for these trust fund programs to the 1985 Balanced Budget Act.

The most significant modifications to the sequestration process, following the BEA of 1990, were made by the Budget Enforcement Act (BEA) of 1997, which was included in one of two reconciliation measures enacted into law that year.⁹ The BEA of 1997 extended the discretionary spending limits and PAYGO requirement through

⁷ The 1987 Balanced Budget Reaffirmation Act was enacted on September 29, 1987, as Title I of P.L. 100-119, a measure raising the public debt limit.

⁸ The BEA of 1990 was enacted on November 5, 1990, as Title XIII of P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990. See *General Management Laws, op. cit.*, for a discussion of the origin and features of the BEA of 1990 (and related legislation, discussed below).

⁹ The BEA of 1997 was enacted on August 5, 1997, as Title X of P.L. 105-33, the Balanced Budget Act of 1997.

FY2002, modified their application, and made various “housekeeping” and technical changes.

In 1998, the discretionary spending limits and associated sequestration procedures were changed again, in this instance by the Transportation Equity Act for the 21st Century (P.L. 105-178), commonly referred to as TEA-21. Section 8101 of the act amended the 1985 Balanced Budget Act by establishing separate discretionary spending limits for highway and mass transit programs.

Finally, in 2000, the discretionary spending limits were revised again by two measures. First, Section 801(a) of the Interior Appropriations Act for FY2001 (P.L. 106-291) amended the 1985 Balanced Budget Act by establishing limits for FY2002-2006 under a new category, “conservation spending.” Further, the act established six different subcategories under the conservation category for each of the fiscal years covered. These subcategories include: (1) federal land and state land water conservation fund; (2) state and other conservation; (3) urban and historic preservation; (4) payments in lieu of taxes; (5) federal deferred maintenance; and (6) coastal assistance.

Second, the Foreign Operations Appropriations Act for FY2001 (P.L. 106-429) revised the discretionary spending limits for that fiscal year to accommodate final congressional action on the remaining FY2001 regular appropriations acts.¹⁰

Description of the Sequestration Process

The sequestration process was established in 1985 as a means of enforcing compliance with a series of annual deficit targets leading to a balanced budget. If the estimate of the deficit made around the beginning of a fiscal year exceeded the allowed level, sequestration was triggered automatically, resulting in largely across-the-board spending reductions in nonexempt appropriations and budget accounts. Appropriations and other forms of budgetary resources were required to be reduced by amounts sufficient to achieve the necessary outlay savings. Half of the spending reductions was to come from defense accounts, and the other half was to come from domestic accounts. Some of the reductions in direct spending accounts, such as Medicare, were to be made under “special rules” that determined the amounts to be cut and limited their size or application; the remaining domestic spending programs and all of the defense spending programs were to be cut by uniform reduction percentages (the domestic and defense percentages could differ from each other). Further, the required reductions for each account were to be applied uniformly to programs, projects, and activities within that account.

Initially, the authority to trigger a sequester was lodged with the comptroller general, who was required to issue initial and final sequestration reports based on initial and final sequestration reports prepared jointly by OMB and CBO. In

¹⁰ P.L. 106-429 was H.R. 4811. The measure enacted into law by cross-reference another appropriations bill for foreign operations, H.R. 5526, which effectively superseded H.R. 4811. Section 701 of H.R. 5526 (114 *Stat.* 1900A-64) raised the discretionary spending limits for FY2001.

anticipation of a constitutional challenge to this arrangement, the 1985 act included “fallback procedures” under which the necessary reductions could be implemented through the enactment of a joint resolution reported by a Temporary Joint Committee on Deficit Reduction (consisting of the membership of the House and Senate Budget Committees). Whenever a sequester was triggered, the President was required to issue immediately a sequestration order in strict conformity with the requirements of the sequestration report (or joint resolution). As discussed previously, the authority to trigger a sequester eventually was placed solely in the hands of the OMB director.

Under current law, sequestration is used to enforce statutory limits on discretionary spending and a “pay-as-you-go” (PAYGO) requirement that applies to legislation affecting revenues and direct spending.

As a general rule, the enforcement procedures for the discretionary spending limits, on the one hand, and the PAYGO requirement, on the other, are separated by a “firewall.” Violations of the discretionary spending limits are remedied by reductions only in discretionary spending programs; violations of the PAYGO requirement are corrected by reductions solely in direct spending programs. Further, savings made on one side of the firewall cannot be used to the advantage of programs on the other side. For example, the cost of tax-cut legislation could not be offset by reductions in annual appropriations acts in order to avoid a PAYGO sequester.

Some flexibility in these procedures is provided by “scorekeeping rule number three.”¹¹ The rule provides that changes in direct spending made in an annual appropriations act be counted under the discretionary spending limits. Accordingly, a reduction in direct spending made in an annual appropriations act would be treated as an offset to an equivalent increase in discretionary spending; such changes in direct spending are referred to as “mandatory offsets.” In addition, “directed scorekeeping” provisions have been included in legislation from time to time that have instructed the OMB director not to score the direct spending or revenue impact of a measure for purposes of the PAYGO requirement.¹²

Like the earlier deficit sequestration procedures, the current sequestration procedures are automatic and are triggered by a report from the OMB director. For sequestration purposes generally, there is only one triggering report issued each year (just after the end of the congressional session). However, OMB reports triggering a sequester in one or more categories of discretionary spending may be issued during the following session if legislative developments so warrant (*i.e.*, the enactment of a

¹¹ The joint explanatory statement accompanying the conference report on the BEA of 1990 set forth several scorekeeping rules to be used in scoring legislation under these enforcement procedures. The scorekeeping rules were revised under the BEA of 1997. They are presented as an addendum at the end of OMB Circular A-11, which deals with budget formulation, and may be found on OMB’s web site at [[http:// www.omb.gov](http://www.omb.gov)].

¹² For example, see Section 1001(b) of P.L. 106-113 (113 *Stat.* 1536), the Consolidated Appropriations Act for Fiscal Year 2000. Provisions changing direct spending or revenue levels in Medicare and other mandatory programs were incorporated into the omnibus appropriations act.

supplemental appropriations measure that violates the limit for one or more discretionary spending categories).

Spending for the Social Security program, except for administrative expenses, is exempt from sequestration, as are many other programs. Reductions in certain programs are made under “special rules.” For example, one special rule limits any reductions in Medicare spending to 4%.

Discretionary Spending Limits. Federal spending that is controlled through the annual appropriations process is referred to as *discretionary spending*. This type of spending, which is expected to approach \$700 billion for FY2002, generally provides funding for the routine operations of federal agencies. Discretionary spending is distinguished from *direct spending*, which stems from substantive law rather than annual appropriations acts and funds entitlement and other mandatory programs such as Medicare, Medicaid, federal employee retirement, and unemployment compensation

Enforcement of the discretionary spending limits applies to different categories of discretionary spending. In the past, discretionary spending sometimes was divided into two or more broad categories, such as defense and nondefense, but these categories were merged into a single “other discretionary” category for FY2000 and subsequent years.¹³ In addition, separate categories exist for highway spending, mass-transit, and conversation spending. Within these categories, separate limits exist for budget authority and outlays, except for the highway and mass-transit categories (which have outlay limits only).

Any violation of the discretionary spending limits is enforced only in the category in which the violation occurs, except that breaches of the highway and mass-transit outlay limits are counted toward the single discretionary category.

The discretionary spending limits are adjusted from time to time by the OMB director. Adjustments may be made for several factors specified in law, including changes in budgetary concepts, the enactment of measures containing spending designated by the President and Congress as an emergency requirement, and the enactment of legislation meeting certain predetermined criteria (*i.e.*, spending for

¹³ For FY1991 through FY1993, separate limits were set for new budget authority and outlays for three different categories—defense, international, and domestic. For fiscal years 1994-1995, the limits on new budget authority and outlays were established for a single category—total discretionary spending. The Omnibus Budget Reconciliation Act of 1993 retained the existing limits for FY1994 and FY1995 without change, and added new limits on total discretionary spending for FY1996-1998. In 1994, the Violent Crime Control Act established separate sequestration procedures for spending from the Violent Crime Reduction Trust Fund through FY2000. The BEA of 1997 revised the discretionary spending limits again and extended them through FY2002. New categories were established for defense and nondefense spending for FY1998 and FY1999; for FY2000-2002, all discretionary spending was merged into a single category (except for the separate Violent Crime Reduction category in effect through FY2000). In 1998, TEA-21 established separate outlay limits for two new categories, highways and mass transit. In 2000, the Interior Appropriations Act for FY2001 established a new category, conservation spending.

continuing disability reviews, adoption incentive payments, the earned income tax credit compliance initiative, and international arrearages).¹⁴

A sequester under the discretionary spending limits is triggered by a sequestration report prepared by the OMB director, generally within 15 days after the end of a congressional session. If a sequester under this process is required at the end of a session, it must occur on the same day as any sequestration tied to enforcement of the PAYGO procedures. During the following session, a “within-session sequester” could occur prior to July 1 if Congress and the President enacted legislation (*e.g.*, a supplemental appropriations act) causing a violation of one or more of the discretionary spending limits for the ongoing fiscal year. Any breaches of the limits that occur during the final quarter of the ongoing fiscal year (*i.e.*, July 1-September 30) would result in a lowering of the applicable limits for the following fiscal year rather than a within-session sequester.

These enforcement procedures also are linked to the congressional budget process. The annual budget resolution sets forth discretionary spending levels consistent with the statutory limits; these levels also are adjusted for the same factors that cause the statutory limits to be adjusted. While OMB is responsible for scoring the effects of budgetary legislation to determine whether a sequester is necessary, CBO (under the direction of the House and Senate Budget Committees) is responsible for scoring legislation for purposes of enforcement in the congressional budget process.

“Pay-As-You-Go” (PAYGO) Requirement. Under the PAYGO process, legislation proposing new direct spending or decreasing revenues for a fiscal year must not result in a net cost for that year. The PAYGO requirement is intended to keep the on-budget surplus from being reduced (or the on-budget deficit from being increased). Direct spending, as mentioned previously, stems from substantive law rather than annual appropriations acts and funds entitlement and other mandatory programs.

The PAYGO balances for each fiscal year are maintained on a rolling PAYGO “scorecard” that accumulates the budgetary effects of laws enacted during the session and in prior years (beginning with FY1992).¹⁵ The threshold test for a PAYGO sequester deals with how legislation changes the surplus or deficit for a fiscal year on the PAYGO scorecard, not the surplus or deficit for that fiscal year in the federal budget generally.

Several years ago, as the budget moved from an overall deficit to an overall surplus, and as the prospect of an on-budget surplus emerged, there was some confusion regarding whether the PAYGO requirement would continue to apply. The

¹⁴ Factors upon which adjustments are based have changed from time to time. For example, the BEA of 1990 provided for adjustments due to changes in inflation, but this was removed by the BEA of 1997.

¹⁵ On several occasions, PAYGO balances have been reset to zero or otherwise modified pursuant to law, either to prevent the sizeable savings from reconciliation legislation from being used as offsets to subsequent direct spending increases or to prevent a sequester.

concern arose from the fact that the stated purpose of the PAYGO requirement (in Section 252(a) of the 1985 Balanced Budget Act) refers only to legislation “that increases the deficit.” In the report accompanying the FY2000 budget resolution, the House Budget Committee stated:

The law is somewhat unclear whether PAYGO lapses when there is an on-budget surplus. OMB has hinted that PAYGO would indeed lapse if the budget was in balance without counting excess Social Security receipts.¹⁶

In response to this concern, OMB Director Jacob Lew issued a statement indicating that such a position was not correct, stating “we believe that PAYGO does apply when there is an on-budget surplus.”¹⁷ The controlling factor, as stated previously, is how legislation changes the balance on the PAYGO scorecard.

Enforcement of the PAYGO process, like the discretionary spending limits, also is accomplished through a special sequestration procedure. If a sequester under this process is required, it must occur within 15 calendar days after Congress adjourns at the end of a session and on the same day as any sequestration tied to enforcement of the discretionary spending limits. The sequester would offset any net negative balance on the PAYGO scorecard, for that fiscal year and the prior fiscal year combined, caused by the enactment of legislation during the session and in prior years. Any required reductions would be made in non-exempt direct spending programs.

Emergency direct spending and revenue legislation, so designated by the President and in statute, is not covered by the PAYGO sequestration process. As mentioned previously, spending for the Social Security program, except for administrative expenses, is exempt from sequestration.

Sequestration Reports and Orders. OMB and CBO must each prepare annually three different types of sequestration reports, as discussed below. The CBO reports, which are advisory only, precede the OMB reports by several days. In all three types of reports, OMB must explain any differences between its estimates and those of CBO.

If the President must issue a sequestration order in any year, the order is issued on the same day that the final OMB sequestration report is issued and the order must implement without change all of the reductions identified in the OMB report.

Two preliminary sequestration reports are issued before the final sequestration report, in order to give the President and Congress advance warning of any possible sequester. Early in the session, OMB and CBO issue sequestration preview reports. The reports provide estimates of the discretionary spending limits, with the adjustments prescribed by law. Also, the reports provide estimates of any net change in the balances on the PAYGO scorecard caused by the enactment of direct spending

¹⁶ See the report of the House Budget Committee to accompany H.Con.Res. 68 (H.Rept. 106-73), March 23, 1999, at page 87.

¹⁷ Letter of April 6, 1999, from OMB Director Jacob Lew to the Honorable John Spratt, ranking minority member of the House Budget Committee.

or revenue legislation subject to the PAYGO process. The OMB preview report contains the same information as the CBO preview report and explains any differences between its estimates and those of CBO.

In August, OMB and CBO issue sequestration update reports to reflect the impact of legislation enacted in the interim.

Finally, OMB and CBO issue final sequestration reports shortly after Congress adjourns to end the session. Both reports must reflect any pertinent legislation enacted since the update reports were issued. The final reports must indicate the baseline amount of budgetary resources and the amount and percentage of the reduction for each account subject to sequestration. Further sequestration reports are issued if a “within-session sequester” is required.

In preparing its update and final sequestration reports, OMB must use the economic and technical assumptions that were used in the earlier preview report. (Previously, OMB could determine in late summer the economic and technical assumptions that it would use for sequestration in October.)

During the course of the session, OMB must provide Congress with cost estimates of budgetary legislation within seven days of its enactment, so that compliance with the discretionary spending limits and PAYGO requirements can be monitored. The cost estimates must be based on the economic and technical assumptions used in the President’s most recent budget, and must include similar cost estimates prepared by CBO together with an explanation of any differences between the two sets of estimates.

History of Sequesters: FY1986-2001

During the 16 fiscal years that sequestration was in effect prior to the FY2002 budget cycle, sequesters were triggered five times in 4 years (see **Table 1**). The first three sequesters occurred during the 5-year period when deficit targets were in effect, covering FY1986-1990.¹⁸ One deficit sequester occurred each year for FY1986, FY1988, and FY1990 (no sequester was triggered for FY1987 or FY1989).

During the remaining 11 years, covering FY1991-2001, sequestration applied to the enforcement of the discretionary spending limits and PAYGO requirement. Two sequesters occurred under the discretionary spending limits, both for FY1991. No sequesters under the discretionary spending limits have occurred subsequently, and no PAYGO sequester has ever occurred.

¹⁸ As mentioned previously, although the deficit targets were extended through FY1995, they effectively were superseded by the discretionary spending limits and PAYGO requirement beginning with FY1991.

Table 1. Summary of Sequesters: FY1986-2001
(outlays in billions of dollars)

Fiscal year	Congress/ session	Initial outlay savings (\$ billions)	Subsequent outcome
Enforcement of deficit targets ^a			
1986	99/2	11.7	Full savings achieved. ^b
1987	99/2	None	[No sequester was required]
1988	100/1	20.0	Reductions superseded by budget agreement. ^c
1989	100/2	None	[No sequester was required]
1990	101/1	16.1	Reduced to \$4.55 billion by subsequent law. ^d
Enforcement of discretionary spending limits and PAYGO requirement ^a			
1991	101/2	0.2	Discretionary spending limit sequester was reduced to \$0.0014 billion by subsequent law. ^e
1992	102/1	None	[No sequester was required]
1993	102/2	None	[No sequester was required]
1994	103/1	None	[No sequester was required]
1995	103/2	None	[No sequester was required]
1996	104/1	None	[No sequester was required]
1997	104/2	None	[No sequester was required]
1998	105/1	None	[No sequester was required]
1999	105/2	None	[No sequester was required]
2000	106/1	None	Provision enacted to prevent a discretionary spending limit sequester; no PAYGO sequester was required. ^f
2001	106/2	None	Provision enacted to prevent a PAYGO sequester; no discretionary spending limit sequester required. ^g

^a The Balanced Budget and Emergency Deficit Control Act of 1985, as amended, established sequestration to enforce deficit targets leading to a balanced budget by FY1993. The Budget Enforcement Act of 1990 amended the 1985 act, effectively replacing the deficit targets with statutory limits on discretionary spending and a “pay-as-you-go” (PAYGO) requirement for revenue and direct spending legislation. Accordingly, the sequestration process was used to enforce deficit targets for FY1986-1990 and discretionary spending limits and the PAYGO requirement for FY1991-1999.

- ^b Outlay reductions under the FY1986 sequester were limited by the 1985 Balanced Budget Act to this amount.
- ^c The FY1988 sequester was in effect from October 20 until December 22, 1987, when legislation implementing a budget summit agreement of November 20 was enacted. Outlay reductions of \$20.0 billion were expected to occur had the sequester been in effect for the full fiscal year.
- ^d The required outlay reduction of \$16.1 billion was reduced to \$5.75 billion by Section 11002 of the Omnibus Budget Reconciliation Act of 1989 and a new sequestration order, consistent with the lower amount, was issued. CBO estimated that the application of the “crediting rule” under Section 252(f) of the 1985 Balanced Budget Act would reduce the savings from \$5.75 billion to \$4.55 billion.
- ^e Two sequesters under the discretionary spending limits occurred for FY1991. On November 9, 1990, \$395 million in budget authority was sequestered in the international category, leading to estimated outlay savings of \$191 million; the sequester was rescinded on April 10, 1991, by Section 401 of P.L. 102-27, a supplemental appropriations act. On April 25, 1991, \$2.4 million in budget authority was sequestered in the domestic category, leading to estimated outlay savings of \$1.4 million.
- ^f Section 5107 in Title V of Division B of the Military Construction Appropriations Act for FY2001 (P.L. 106-246) prevented a sequester that otherwise would have been required because of the inclusion in the act of supplemental appropriations for FY2000; the sequester would have had to eliminate a breach of \$2.359 billion in budget authority and \$6.763 billion in outlays in the “other discretionary” category.
- ^g Section 2(b) of the Consolidated Appropriations Act for FY2001 (P.L. 106-554) prevented a PAYGO sequester for FY2001, that would have been needed to eliminate a \$10.5 billion balance on the PAYGO scorecard, by requiring the OMB director to reset the balance to zero.

Initial outlay savings associated with the three deficit target sequesters were substantial, ranging from \$11.7 billion for FY1986, to \$20.0 billion for FY1988, and to \$16.1 billion for FY1990. While the savings for FY1986 remained intact, the savings for FY1988 were superseded completely by legislation implementing a budget summit agreement and the savings for FY1990 were reduced to \$4.55 billion by subsequent legislation. Notwithstanding the implementation of a sequester for each of these three fiscal years, the deficit targets proved to be ineffective on the whole. The actual deficit for each of these years exceeded the applicable target by an average of about \$60 billion.

The two sequesters for FY1991 under the discretionary spending limits had a minuscule impact compared to the earlier deficit target sequesters. Both of the sequesters were triggered inadvertently and the larger of the two was rescinded completely.

Each of the five sequesters is discussed in more detail below.

Deficit Target Sequesters (FY1986-1990). Three sequesters have occurred in enforcement of the statutory deficit targets, involving FY1986, FY1988, and FY1990.

FY1986. Because the 1985 Balanced Budget Act was enacted several months after FY1986 had begun, sequestration actions for the fiscal year were taken in 1986 under a truncated schedule. On January 15, 1986, the CBO and OMB directors submitted a joint *Sequestration Report for Fiscal Year 1986* to the comptroller general. Differences in their estimates were averaged, resulting in a deficit estimate of \$220.5 billion. Although the deficit was estimated to exceed the target of \$171.9 billion by \$48.6 billion, outlay reductions for the fiscal year were capped by the 1985 act at \$11.7 billion. Accordingly, the uniform reduction percentages were 4.9% for defense programs (military personnel accounts were exempted) and 4.3% for nondefense programs.

In issuing his sequestration report, *Budget Reductions for FY 1986*, on January 21, the comptroller general generally agreed with the averaged estimates and calculations made by the CBO and OMB directors. Consequently, President Reagan issued a sequestration order on February 1.

As previously discussed, rulings by a U.S. District Court on February 7 and by the Supreme Court on July 7 invalidated the sequestration order for FY1986, but the judgments of the courts were stayed to allow Congress to ratify the sequestration order under “fallback procedures” in the 1985 act. On July 17, the Temporary Joint Committee on Deficit Reduction reported identical House and Senate joint resolutions aimed at restoring the sequester. The House and Senate acted on a comparable measure (H.J.Res. 672), which passed the House and Senate on July 17 and was signed into law on July 31 as P.L. 99-366.

The actual deficit for fiscal year 1986 amounted to \$221.2 billion, almost \$50 billion over the deficit target.

FY1988. Under the “fallback procedures,” the CBO and OMB directors submitted a joint sequestration report for FY1988 to Congress on August 20, 1987. The averaged deficit estimate of \$153.4 billion indicated a deficit excess of \$45.4 billion. The House and Senate deferred action on sequester resolutions pending revision of the 1985 Balanced Budget Act in conjunction with passage of an increase in the statutory limit on the public debt. The revisions in the sequestration process and deficit targets made in September by the 1987 Balanced Budget Reaffirmation Act provided that new sequestration actions for FY1988 be taken under a modified timetable covering October and November 1987.

The CBO and OMB directors separately issued initial sequestration reports for FY1988 on October 15 and 20, respectively. The OMB director estimated the deficit for the fiscal year at \$163.0 billion—\$19.0 billion above the revised deficit target—and President Reagan issued an initial sequestration order on October 20. The two directors issued revised sequestration reports on November 16 and 20, respectively. Under the revised OMB deficit estimate of \$164.0 billion, defense programs (with military personnel accounts exempted) were reduced uniformly by 10.5% and nondefense programs by 8.5%. President Reagan issued the final sequestration order on November 20.

Negotiators from the House and Senate leadership and the administration, participating in a “budget summit,” reached agreement on a compromise plan on

November 20. Although the summit agreement came too late to forestall issuance of the final sequestration order, the initial and final sequestration orders were canceled on December 22 upon the enactment of appropriations and reconciliation measures implementing the agreement. Budgetary resources that had been sequestered were restored. In total, the compromise plan proposed about \$76 billion in savings over 2 years—\$30 billion for FY1988 and \$46 billion for FY1989. According to estimates made by CBO in February 1987, savings in a full-year continuing resolution (P.L. 100-202) and the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) amounted to \$34 billion, exceeding the goal set in the summit agreement by about \$4 billion.

The actual deficit for FY1988 amounted to \$155.1 billion, more than \$11 billion above the deficit target.

FY1990. On August 21, 1989, the CBO and OMB directors issued initial sequestration reports for FY1990 (the OMB report was issued several days ahead of the statutory deadline). The OMB director estimated the deficit at \$116.2 billion—\$6.2 billion over the triggering threshold. President Bush issued an initial sequestration order on August 25 directing that the reductions in the OMB report be made, effective October 1, on a provisional basis.

The CBO and OMB directors issued revised sequestration reports on October 10 and 16, respectively. Due to largely offsetting changes in spending, the OMB director adjusted his deficit estimate by only \$0.1 billion, bringing it down to \$116.1 billion. On October 16, President Bush issued a final sequestration order adjusting slightly and finalizing the reductions made earlier. In order to eliminate the deficit excess of \$16.1 billion, defense programs were cut by 4.3% (military personnel accounts were not exempted) and nondefense programs were cut by 5.3%.

On December 27, President Bush issued a sequestration order for FY1990 as required by Section 11002 of the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239). The new order, which replaced the order of October 16 issued pursuant to the 1985 Balanced Budget Act, reduced the estimated outlay savings from sequestration by about two-thirds (to \$5.75 billion). Under the “crediting rule” in the 1985 act, the expected outlay savings under the new order were reduced to \$4.55 billion. The modified sequestration reductions, together with other savings in the reconciliation act and other measures, were expected at the time to bring the deficit estimate down to a point below the \$110 billion triggering threshold. However, several weeks later, in January 1990, OMB revised the deficit estimate for FY1990 upward to \$122 billion.

The actual deficit for FY1990 amounted to \$220.4 billion, more than \$120 billion above the deficit target.

Avoidance of Sequesters for FY1987 and FY1989. Sequesters under the deficit targets for FY1987 and FY1989 were avoided. For FY1987, Congress and the President enacted an omnibus reconciliation measure and other acts that reduced the estimated deficit to \$3 billion below the triggering threshold of \$154 billion. For FY1989, the estimated deficit was \$0.5 billion below the triggering threshold of \$146

billion. The actual deficits for FY1987 and FY1989 exceeded the targets by about \$5 billion and \$17 billion, respectively.

Sequesters Under the Budget Enforcement Act (FY1991-2001). The Budget Enforcement Act of 1990 replaced the deficit targets with discretionary spending limits (first effective for FY1991) and the PAYGO requirement (first effective for FY1992). There have been two sequesters under the discretionary spending limits. Both of them applied to FY1991, with the first occurring late in 1990 and the other occurring in the spring of 1991. There have been no PAYGO sequesters.

FY1991. During most of 1990, while Congress and the President conducted negotiations on the budget for FY1991 (and before the BEA of 1990 was enacted), sequestration procedures keyed to the deficit targets were still in place. The deficit target for the fiscal year was set at \$64 billion. Under the sequestration procedures as they existed at that time, President Bush issued initial and final sequestration orders—on August 25 and October 15, 1990, respectively—that would have sequestered sufficient budgetary resources to yield the more than \$80 billion in outlay savings necessary to meet the \$64 billion deficit target. The implementation of the orders, however, was suspended through November 5 by provisions enacted in a series of joint resolutions providing continuing appropriations.

On November 5, the sequestration process was modified substantially when President Bush signed the reconciliation act containing the BEA of 1990 into law. The reconciliation law, which implemented much of the \$500 billion in savings over 5 years assumed by the budget resolution, also rescinded the sequestration orders issued on August 25 and October 15.

On November 9, OMB identified in its final sequestration report for FY1991 a breach of \$395 million in the limit on discretionary budget authority for international programs caused by a drafting error in the Foreign Operations Appropriations Act for FY1991. President Bush issued a sequestration order that day. The “mini-sequester” required a 1.9% uniform reduction in covered international programs and was estimated to yield \$191 million in outlay savings.

In 1991, just prior to adjourning for the spring recess, Congress enacted two measures providing supplemental appropriations for FY1991: H.R. 1281, providing “dire emergency” supplemental appropriations, and H.R. 1282, providing supplemental appropriations for Operation Desert Storm. President Bush signed them into law on April 10, 1991, as P.L.102-27 and P.L. 102-28, respectively. The two bills together provided about \$45.3 billion in new budget authority, but most of the supplemental appropriations (\$44.0 billion) was designated as emergency spending and did not violate the budget enforcement procedures under the 1985 act.

With regard to non-emergency spending, however, H.R. 1281 provided \$512 million in budget authority in the domestic category, causing the limit for that category to be exceeded by about \$2 million. Although \$835 million in non-emergency budget authority was provided in the defense category, it did not cause a breach. Further, outlay breaches in the international and domestic categories were

covered by special outlay allowances amounting to \$1.5 billion and \$2.5 billion, respectively.

Accordingly, on April 25, OMB issued a within-session sequestration report for FY1991, indicating that budget authority for accounts in the domestic category would be reduced by 13 ten-thousandths (0.0013) of one percent (\$13 for every one million dollars in an account). The outlay savings associated with the \$2.4 million reduction in budget authority were estimated at \$1.4 million. President Bush issued a sequestration order on the same day.

In his report on compliance with procedures under the BEA for FY1991, the comptroller general asserted that the April 25 sequester would have been avoided had OMB properly excluded from its calculations \$26 million in previously obligated funds that were exempted by P.L. 102-27 from new account-closing requirements.¹⁹

One of the two supplemental appropriations acts, P.L. 102-27, contained a provision relating to the sequester of November 9, 1990. Section 401 of the act (105 *Stat.* 154-155) corrected the drafting error in the Foreign Operations Appropriations Act, rescinded the November 9 sequestration order, and restored the sequestered amounts.

Avoidance of Sequesters for FY2000 and FY2001. During the 2000 session, Congress and the President enacted provisions to prevent a sequester under the discretionary spending limits for FY2000 and a PAYGO sequester for FY2001.

In the middle of the session, the House and Senate attempted to bring action on the FY2000 budget to a close by considering supplemental appropriations for the fiscal year in a single bill (in the House) or as elements incorporated into several regular appropriations bills for FY2001 (in the Senate). Eventually, the supplemental appropriations for FY2000 were merged into a single regular appropriations bill, the Military Construction Appropriations Act for FY2001. The measure was enacted into law on July 13, 2000, as P.L. 106-246.

According to OMB estimates, the non-emergency supplemental appropriations included in P.L. 106-246 caused a breach in the budget authority and outlay limits for the “other discretionary” category of \$2.359 billion and \$6.763 billion, respectively. Levels in the remaining three discretionary spending categories were not changed by P.L. 106-246. In anticipation that the measure would become law in late June or early July, Congress inserted into the bill a provision barring a sequester (which would have been required if enactment occurred in June) or a reduction in the FY2001 limits (which would have been required because of enactment on or after the July 1 triggering date).²⁰

At the end of the 2000 session, Congress and the President wrapped up business by enacting the Consolidated Appropriations Act for FY2001 (P.L. 106-554:

¹⁹ U.S. General Accounting Office, *Budget Enforcement Act Compliance Report*, report number GAO/AFMD-92-43 (Washington: February 14, 1992).

²⁰ See Section 5107 (114 *Stat.* 582) in Title V of Division B of the act.

December 21, 2000), which enacted regular appropriations as well as significant direct spending and revenue legislation by cross-reference. According to the OMB director's *Final Sequestration Report for FY2001*, issued on January 16, 2001, the enactment of the Consolidated Appropriations Act for FY2001, together with other measures involving direct spending and revenues, incurred a net cost on the PAYGO scorecard for FY2001 of \$10.542 billion. A PAYGO sequester was avoided, however, because Section 2(b) of the Consolidated Appropriations Act instructed the OMB director to reset the PAYGO balance for FY2001 to zero.

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