BUDGET ENFORCEMENT ACT PREVIEW REPORT

14. PREVIEW REPORT

The Budget Enforcement Act of 1990 (BEA) was enacted as part of the Omnibus Budget Reconciliation Act of 1990. The BEA established, through 1995, annual limits, or "caps," on discretionary spending, and a pay-as-you-go (PAYGO) requirement that legislation affecting direct spending or receipts not result in a net cost. An across-the-board reduction of non-exempt spending, known as "sequestration," enforces compliance with these constraints. The BEA has been extended several times, most recently by the Balanced Budget Act of 1997 (BBA), which extended the caps and PAYGO requirements through 2002. While the overall spending caps have expired, category caps still exist for transportation and environmental conservation activities. This report includes a presentation of those category limits in FY 2003, though it does not propose new overall discretionary caps beyond FY 2002.

The BEA requires that OMB issue a report on the impact of each piece of enacted legislation that affects spending or receipts. It requires three additional reports throughout the year on the overall status of discretionary and PAYGO legislation. This Preview Report, the first of the three BEA-required status reports, provides the status of discretionary appropriations and PAYGO legislation based on laws enacted as of the end of the first session of the 107th Congress. In addition, it explains the differences between the OMB and Congressional Budget Office (CBO) estimates of the remaining subcategory discretionary caps.

OMB estimates use the economic and technical assumptions underlying the President's FY 2003 Budget submission, as required by the BEA. The remaining two BEA-required status reports, the Update Report that will be issued in August and the Final Report that will be issued after the end of the Congressional session, must also use these same economic and technical assumptions. Estimates in the Update Report and the Final Report will be revised only to reflect laws enacted after the Preview Report.

I. THE PRESIDENT'S BUDGET PROPOSALS

In the first session of the 107th Congress, the President proposed and the Congress chose to enact 2002 appropriations well above the discretionary spending levels originally set by the BEA. Although the 1997 statutory spending limits provided an effective incentive to slow the growth of government spending during a time of deficits, the growth in discretionary spending with the arrival of budget surpluses in 1998 made these caps unrealistic. The Administration will work with the Congress during the next session to develop budget enforcement mechanisms, including future discretionary spending limits and a PAYGO requirement for entitlement spending and tax legislation that are consistent with the needs of the country.

Budget Process Reform

The 2003 budget is being proposed during a time when our Armed Forces are fighting the War on Terrorism abroad and increased funding is needed to prevent future terrorist attacks at home; the economy is suffering the effects of the slowdown that was worsened by the terrorist attacks on September 11, 2001; budget surpluses for the short term have disappeared; and the general purpose discretionary caps and PAYGO requirements of BEA no longer apply. From the perspective of developing a 2003 budget, these are waters that have not been charted for many years, and prudent action will be required to avoid years of excess spending and deficits. A number of process reforms would enhance the Nation's ability to meet these challenges in a fiscally responsible manner.

A Joint Budget Resolution, Discretionary Caps, and PAYGO

The Budget Enforcement Act's mechanisms for limiting discretionary spending and for constraining expansions in mandatory programs and reductions in tax receipts expire at the end of 2002, for most programs. The President's 2003 budget provides the funding necessary to win the War on Terrorism, stimulate the economy, and meet the Nation's ongoing public requirements.

The Administration proposes a joint budget resolution to give the budget resolution the force of law. A joint budget resolution would set the overall levels for discretionary spending, mandatory spending, receipts, and debt in a simple document that would have the force of law. Under the current process, the Congress annually adopts a "concurrent resolution," which does not require the President's signature and does not have the force of law.

A joint budget resolution could be enforced by sequesters requiring automatic across-the-board cuts by category to offset any excess spending, similar to the BEA. It would bring the President into the process at an early stage, require the President and the Congress to reach agreement on overall fiscal policy before individual tax and spending bills are enacted, and avoid the "train wrecks" at the end of the year that frequently occur under the current process.

Alternatively, enforcement could involve extension of the BEA enforcement mechanisms. If the BEA is extended, the Administration would support discretionary caps that are consistent with the discretionary levels proposed in the 2003 budget and PAYGO requirements that would carry out the 2003 budget's proposals for mandatory spending and receipts.

Reserve for Fully Accruing Federal Employees Retirement

The President's 2003 Budget corrects a long-standing understatement of the true cost of literally thousands of government programs. For some time, the accruing charge of the Federal Employee retirement system (FERS) and military retirement system (MRS) costs and a portion of the old Civil Service retirement system (CSRS) costs has been properly allocated to the affected salary and expense accounts, but the remainder (a portion of CSRS, other small retirement systems, and all civilian and military retiree health benefits) has been charged to central accounts. The full cost of accruing benefits should be allocated to the affected salary and expense accounts, so that budget choices for program managers and budget decision makers are not distorted by inaccurate, understated cost information.

The Budget presents the amounts associated with shifting this cost from central accounts to affected program accounts, starting in 2003. The amounts associated with the proposal are shown on a comparable basis for program accounts in 2001 and 2002. Agencies will also, for the first time, be charged for the accruing cost of retiree health care benefits for all civilian employees. These are also shown on a comparable basis for 2001 and 2002. For military retirees health benefits, current law requires agencies to be charged for the accruing cost for over-age 64 military retirees, and the budget proposes to extend this to under-age 65 military retirees in 2004. These amounts are shown in the Budget, beginning in 2004.

The proposal does not increase or lower total budget outlays or alter the surplus/deficit since the higher payments will be offset by receipts in the pension and health funds. The shift will reduce reported costs from central mandatory accounts and increase reported costs in the affected discretionary accounts. Consequently, these costs will be properly reported in the budget for the first time and considered as an annual cost of managing these programs, as they should be.

The Administration will oppose any attempt to divert the additional funding from the intended purpose and instead use it to fund programmatic increases. Therefore, the Administration proposes that the additional funding be fenced or held in a reserve and only be made available to the committees of jurisdiction for the specific purpose of adjusting for the understatement of costs.

This change in treatment of costs is the first in a series of steps that will be taken to ensure that the full annual cost of resources used including support services, capital assets and hazardous waste is charged properly in the budget presentation.

Reviewing Mandatory Spending

While the budget currently classifies spending that is subject to the annual appropriations process as "discretionary" and spending that is provided through permanent law as "mandatory," the Constitution makes clear that all funding is at the discretion of Congress and the President through their power to make law. The terms "discretionary" and "mandatory" describe the process by which Congress provides funding and not the necessity of the spending.

For example, the salaries and expenses for the President and the Vice President's offices, the two highest offices in the land, are subject to the appropriations process and classified as "discretionary," while funding for a few selected federal agencies' administrative expenses is provided under permanent law and classified as "mandatory."

Except for interest on the national debt, virtually all federal spending was subject to the annual appropriations process until the New Deal entitlement programs, including Social Security and agriculture subsidies, were created. Medicare and Medicaid, launched in the 1960s, lifted the share of mandatory spending to more than half of overall outlays by 1975. This year, sixty-four cents of every federal dollar will be not be subject to Congress' discretion under the annual appropriations process.

Each time a program is added to the mandatory side of the budget, the Congress loses some of the flexibility necessary to respond to new priorities. During previous wars, when most of the budget was subject to the annual appropriations process, presidents had greater flexibility to adjust spending levels to meet the new demands of a war. Both Presidents Roosevelt and Truman reduced spending in other areas to meet the demands of World War II and the Korean War.

With such a large portion of the budget exempt from the annual appropriations process, the 107th Congress and the President do not have the same flexibility. They must meet the new demands of a new war against terrorism in the annual appropriations process with much more limited options.

Based on a review, the Office of Management and Budget identified a limited list of programs that Congress may want to put back under its annual review and control. This budget proposes to reclassify three of those programs. Several others that the Congress may wish to consider reclassifying are listed below. In total, these programs amount to only $8 billion, less than one percent of federal spending. If Congress shifted these or other programs from the mandatory to discretionary category, it would provide greater scrutiny and greater flexibility in meeting national needs.

Programs proposed to be reclassified from mandatory to discretionary in the President's 2003 Budget:

- Federal Direct Student Loan Fund Program, administrative expenses;
- Corps of Engineers, Power Marketing receipts, offset to discretionary spending; and
- FEMA Flood Insurance Premiums, offset to discretionary administrative expenses.

Administrative expenses classified as mandatory:

- Student loan subsidy for consolidation loan administration;
- Black Lung Disability Fund;
- Energy Employees Occupational Illness Compensation Fund;
- Pension Guaranty Benefit Corporation;
- Civil Service Retirement Disability Fund; and
- Social Security Administration, Benefits to Disabled Coal Miners.

Non-entitlement programs classified as mandatory:

- Maritime Administration Ocean Freight Differential;
- Vocational Rehabilitation Program;
- Child Care Entitlement to States; and
- Social Services Block Grant.

Limiting Use of Advance Appropriations

An advance appropriation becomes available one year or more beyond the year for which the appropriations act is passed. Budget authority is recorded in the year the funds become available, not in the year enacted. Too often, advance appropriations have been used to expand spending levels by shifting budget authority from the budget year into the subsequent year and then appropriating the BA freed up under the budget year discretionary cap to other programs. From 1993 to 1999, an average of $2.3 billion in discretionary budget authority was advance appropriated each year. In 1999, advance appropriations totaled $8.9 billion, an increase of $5.8 billion from the previous year. They increased to $23.4 billion in 2000 and have essentially remained at this level.

This budget practice distorts the debate over Government spending and misleads the public about spending levels in specific accounts. The 2002 Congressional Budget Resolution addressed this misuse of advance funding by capping advance appropriations at the amount advanced in the previous year. The Administration proposes that total advance appropriations continue to be capped in 2003. Accordingly, the 2003 budget freezes all advance appropriations, except for those that should be reduced or eliminated for programmatic reasons.

Line-Item Veto

A perennial criticism of the Federal Government is that the annual budget contains too many special interest spending items. The persistence of these special interest items erodes citizen confidence in Government.

Because appropriations bills must be enacted annually to fund the Government, they attract spending items that could not be enacted on their own. Particularly at the end of the congressional session, it is not uncommon for bills to move through the appropriations process quickly, often with little scrutiny. It is the rare Member who will challenge questionable spending for fear that provisions important to him or her will be challenged in return. The result of this logrolling is that the President is left with an all or nothing proposition. He must either sign the entire appropriations bill with special interest projects or veto the entire bill and invite a potential Government shutdown.

The President proposes that the Congress correct a constitutional flaw in the Line Item Veto Act enacted in 1996. From the Nation's founding, Presidents have exercised the authority to decline to spend appropriated sums. However, this authority was curtailed in 1974 when Congress passed the Impoundment Control Act, which restricted the President's authority to decline to spend appropriated sums. The Line Item Veto Act of 1996 attempted to give the President the authority to cancel spending authority and special interest tax breaks, but the U.S. Supreme Court found that law unconstitutional.

The President proposes a line-item veto linked to debt reduction. This proposal would give the President the authority to decline to spend new appropriations, to decline to approve new mandatory spending, or to decline to grant new limited tax benefits (to 100 or fewer beneficiaries) whenever the President determines the spending or tax benefits are not essential Government functions and will not harm the national interest. All savings from the line-item veto would be used for debt reduction.

Biennial Budgeting and Appropriations

Only twice in the last 50 years has the Congress enacted all 13 appropriation bills by the beginning of the fiscal year. According to the Congressional Budget Office, roughly one-third of domestic discretionary programs are operating under authorization statutes that have expired. Because Congress must enact 13 appropriations bills each year, it cannot devote the time necessary to provide oversight and resolve problems in other programs. The preoccupation with these annual appropriations bills frequently precludes review and action on the growing portion of the budget that is permanently funded under entitlement laws.

In contrast, a biennial budget would allow lawmakers to devote more time every other year to ensuring that taxpayers' money is spent wisely and efficiently. In addition, Government agencies would receive more stable funding, which would facilitate longer range planning and improved fiscal management. Under the President's proposal for a biennial budget, funding decisions would be made in non-election years to help de-politicize the process. Moreover, lawmakers could devote more time to finishing the appropriation bills on time because the next year would be free for other legislative business.

Government Shutdown Prevention

For 20 out of the past 21 years, Congress and the President have not finished their work by the October 1st deadline, the beginning of the new fiscal year. This past year, none of the 13 appropriations bills was enacted by the beginning of the year. When Congress and the President fail to gain enactment of all 13 appropriations bills, the Congress frequently funds the Government through "continuing resolutions" (CRs), which provide temporary funding authority for Government activities at current levels until the final appropriations bills are signed into law. This past year, for example, Congress had to enact 7 separate CRs to keep the Government operating.

Congress must pass a CR and it must be signed by the President to provide funding for agencies. Absent enactment of a CR, the Federal Government is shut down. In the 1980s and 1990s, the Government experienced shutdowns. Some Administrations used the threat of a Government shutdown to extract spending increases from the Congress. These annual, often cynical rituals were destructive of public confidence and reflected poorly on all parties to the debate.

Important Government functions should not be held hostage simply because Washington cannot cut through partisan strife to pass temporary funding bills. In the responsible process the President envisions, appropriations bills would pass on time as the law requires, but a back-up plan to avoid the threat of a Government shutdown is a good idea. Under the President's proposal, if an appropriations bill is not signed by October 1 of the new fiscal year, funding would be automatically provided at the lower of the President's Budget or the prior year's level. The President's proposal would remove incentives for the President or the congressional leadership to use the leverage of "shutting down Government" to achieve spending objectives or to attach extraneous measures they could not otherwise obtain through the normal appropriations process.

II. DISCRETIONARY SEQUESTRATION REPORT

Discretionary programs are funded annually through the appropriations process. The scorekeeping guidelines accompanying the BEA identify accounts with discretionary resources. The BEA limits, or caps, budget authority and outlays available for discretionary programs each year through 2002. For 2000, the BEA divided discretionary spending into two categories: violent crime reduction spending and all other discretionary spending. For 2001 and 2002, the BEA specified a single category for all discretionary spending. The Transportation Equity Act for the 21st Century (TEA–21) (P.L. 105–178) established two additional categories for highway and mass transit outlays for 1999 through 2003. The Interior and Related Agencies Appropriations Act, 2001, (P.L. 106–291) added a new category for conservation spending with limits on budget authority and outlays for 2002–2006. In addition to specifying overall limits for the conservation category, the Act also specifies levels of spending for six subcategories. While the limits for overall discretionary spending expired in 2002, the highway and mass transit categories continue through 2003, while the conservation category does not expire until 2006. This report examines how appropriations within the 2003 budget conform with the limits specified in the aforementioned categories.

OMB monitors compliance with the discretionary spending limits throughout the fiscal year. Appropriations that cause a breach in the budget authority or outlay limits trigger a sequester to eliminate that breach. The law does not require that Congress appropriate the full amount available under the discretionary limits, although it generally has appropriated at least the full amount. In recent years, the Congress and the Administration have used various means, such as emergency designations and advance appropriations, to circumvent the discretionary limits.

In 2002, for example, Division C, Section 101 of P.L. 107–117, the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States, 2002, legislated an upward adjustment of $134.5 billion in budget authority and $132.8 billion in outlays to the other discretionary category to make room for increased spending above the original statutory limits. The Act also included a special BA adjustment allowance of up to 0.12 percent of total appropriations.

Table 1 summarizes changes to the caps since 1990 and includes the limits established by for highways, mass transit, and conservation spending. It also includes the revised other discretionary limit for 2002 established in P.L. 107–117.

Table 14–1. HISTORICAL SUMMARY OF CHANGES TO DISCRETIONARY SPENDING LIMITS

(In billions of dollars)

		1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
TOTAL DISCRETIONARY														
Statutory Caps as set in OBRA 1990, OBRA 1993, 1997 Bipartisan Budget Agreement, and TEA–21	**BA**	**491.7**	**503.4**	**511.5**	**510.8**	**517.7**	**519.1**	**528.1**	**530.6**	**533.0**	**537.2**	**542.0**	**551.1**	....
	OL	**514.4**	**524.9**	**534.0**	**534.8**	**540.8**	**547.3**	**547.3**	**547.9**	**559.3**	**564.3**	**564.4**	**560.8**	**34.6**
Adjustment to 1998 OBRA limits to reach discretionary spending limits included in the 1997 Bipartisan Budget Agreement	BA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	–6.9	N/A	N/A	N/A	N/A	N/A
	OL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	6.8	N/A	N/A	N/A	N/A	N/A
Adjustments for changes in concepts and definitions	BA	....	7.7	8.2	8.2	8.8	–0.6	–0.4	3.1	–0.2	2.8	–0.1	–3.3	N/A
	OL	....	1.0	2.4	2.3	3.0	–0.5	–2.6	–2.8	–0.3	0.1	–0.1	–3.3	N/A
Adjustments for changes in inflation	BA	....	–0.5	–5.1	–9.5	–11.8	3.0	2.6	0.0	N/A	N/A	N/A	N/A	N/A
	OL	....	–0.3	–2.5	–5.8	–8.8	1.8	2.3	0.9	N/A	N/A	N/A	N/A	N/A
Adjustments for credit reestimates, IRS funding, debt forgiveness, Arrearages, EITC, IMF, and CDRs	BA	0.2	0.2	13.0	0.6	0.7	0.1	0.2	1.0	19.4	1.0	0.6	0.6	N/A
	OL	0.3	0.3	0.8	0.8	0.9	0.1	0.3	0.6	1.1	0.7	1.2	0.8	N/A
Adjustments for emergency requirements	BA	0.9	8.3	4.6	12.2	7.7	5.1	9.3	5.7	31.9	43.6	20.0	22.2	N/A
	OL	1.1	1.8	5.4	9.0	10.1	6.4	8.1	7.0	22.9	35.8	20.5	31.7	N/A
Adjustment pursuant to Sec. 2003 of P.L. 104–19 [1]	BA	....	....	....	....	–15.0	–0.1	–0.1	....	N/A	N/A	N/A	N/A	N/A
	OL	....	....	....	....	–1.1	–3.5	–2.4	–1.5	N/A	N/A	N/A	N/A	N/A
Adjustments for special allowances: Discretionary new budget authority	BA	....	3.5	2.9	2.9	2.9	....	....	....	N/A	N/A	3.2	0.3	N/A
	OL	....	1.4	2.2	2.6	2.7	1.1	0.5	0.1	N/A	N/A	N/A	N/A	N/A
Outlay allowance	BA	....	....	....	....	....	....	....	....	....	....	....	....	N/A
	OL	2.6	1.7	0.5	1.0	....	....	....	1.2	....	0.8	2.4	....	N/A
Subtotal, adjustments excluding Desert Shield/Desert Storm	BA	1.1	19.3	23.6	14.3	–6.7	7.5	11.6	2.9	51.1	47.4	23.7	19.8	N/A
	OL	3.9	5.9	8.8	10.0	6.8	5.4	6.3	12.3	23.7	37.3	24.0	29.2	N/A
Adjustments for Operation Desert Shield/Desert Storm	BA	44.2	14.0	0.6	*	*	....	....	....	N/A	N/A	N/A	N/A	N/A
	OL	33.3	14.9	7.6	2.8	1.1	....	....	....	N/A	N/A	N/A	N/A	N/A
Rounding Adjustment	BA	N/A	N/A	N/A	N/A	N/A	N/A	....	....	....	1.1	0.0	....	....
	OL	N/A	N/A	N/A	N/A	N/A	N/A	....	....	....	....	....	....	....
TEA–21 Adjustment (Net) [2]	BA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	–0.9	–0.9	–0.9	–0.9	N/A
	OL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1.1	2.6	5.2	7.1	–1.0
Adjustment to reach spending limits mandated in P.L. 106–429 [3]	BA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	95.9	N/A	N/A
	OL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	58.6	N/A	N/A
Adjustment to reach spending limits mandated in P.L. 107–117 [4]	BA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	134.5	N/A
	OL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	133.1	N/A
Adjustment for conservation limits established by P.L. 106–291 [5]	BA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1.8	1.9
	OL	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1.2	1.9
Total adjustments	BA	45.3	33.2	24.2	14.3	–6.7	7.5	11.6	2.9	50.2	47.6	118.8	155.2	1.9
	OL	37.2	20.8	16.4	12.8	7.9	5.4	6.3	12.3	24.9	40.0	87.8	170.5	0.9
Preview Report spending limits [6]	**BA**	**537.0**	**536.6**	**535.7**	**525.1**	**511.0**	**526.6**	**539.7**	**533.5**	**583.2**	**584.8**	**660.8**	**706.3**	**1.9**
	OL	**551.6**	**545.7**	**550.4**	**547.6**	**548.7**	**552.7**	**553.6**	**560.2**	**584.2**	**604.2**	**652.2**	**731.3**	**35.5**

N/A = Not Applicable.

* $50 million or less.

[1] P.L. 104–19, Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995, was signed into law on July 27, 1995. Section 2003 of that bill directed the Director of OMB to make a downward adjustment in the discretionary spending limits for 1995–1998 equal to the aggregate amount of reductions in new budget authority and outlays for discretionary programs resulting from the provisions of the bill, other than emergency appropriations.

[2] Sec. 8101(a) of P.L. 105–178, the Transportation Equity Act for the 21st Century (TEA–21), which was signed by the President on June 6, 1998, established two new discretionary spending categories: Highway and Mass Transit. Sec. 8101(b) of TEA–21 provided for an offsetting adjustment in the existing discretionary spending limits.

[3] Sec. 701 of P.L. 106–429, the Foreign Operations and Related Agencies Appropriations Act, FY 2001, included revised budget authority and outlay caps for FY 2001. In addition, this section provided for a budget authority rounding adjustment of 0.5 percent, and also prohibited OMB from making adjustments in the Final Sequestration Report for emergency requirements.

[4] Division C, Section 101 of P.L. 107–117, the Department of Defense Appropriations Act, FY 2002, included revised budget authority and outlay caps for FY 2002. In addition, this section provided a budget authority technical estimating difference adjustment allowance of up to 0.12 percent of total appropriations.

[5] Title VIII of of P.L. 106–291, the Interior and Related Agencies Appropriations Act, FY 2001, created a new conservation cagetory with limits on budget authority and outlays for FY 2002–FY 2006.

[6] Reflects combined Defense Discretionary, Non-Defense Discretionary, Violent Crime Reduction, Highway Category, Mass Transit Category, and Conservation Category spending limits. FY 2003 figures include Highway, Mass Transit, and Conservation Categories only.

Adjustments to discretionary limits.—The BEA permits certain adjustments to the discretionary limits. The Final Sequestration Report for 2002 that OMB issued last month describes adjustments permitted by the BEA as of the time the report was issued. The limits resulting from these adjustments are the starting points for this Preview Report. Included in the Preview Report are adjustments to the highway, mass transit, and conservation categories. Table 2 shows the adjustments made in this Preview Report.

Table 14–2. DISCRETIONARY SPENDING LIMITS

(In millions of dollars)

		2001	2002	2003
HIGHWAY CATEGORY				
Final Sequestration Report Highway Category Spending Limits	**BA**	....	....	....
	OL	**26,920**	**28,489**	**29,100**
Adjustments for the Preview Report:				
Technical outlay adjustment	BA	N/A	N/A	....
	OL	N/A	N/A	–178
Adjustment for revenue aligned budget authority	BA	N/A	N/A	....
	OL	N/A	N/A	–1,341
Subtotal, Adjustments for the Preview Report	BA	N/A	N/A	....
	OL	N/A	N/A	–1,519
Preview Report Highway Category Spending Limits	BA	....	....	....
	OL	26,920	28,489	27,581
MASS TRANSIT CATEGORY				
Final Sequestration Report Mass Transit Category Spending Limits	**BA**	....	....	....
	OL	**4,639**	**5,275**	**5,531**
Adjustments for the Preview Report:				
Technical outlay adjustment	BA	N/A	N/A	....
	OL	N/A	N/A	499
Subtotal, Adjustments for the Preview Report	BA	N/A	N/A	....
	OL	N/A	N/A	499
Preview Report Mass Transit Category Spending Limits	**BA**	....	....	....
	OL	**4,639**	**5,275**	**6,030**
CONSERVATION CATEGORY				
Final Sequestration Report Conservation Category Spending Limits	**BA**	**N/A**	**1,760**	**1,920**
	OL	**N/A**	**1,473**	**1,872**
Federal and State Land and Water Conservation Fund subcategory	BA	N/A	540	540
State and Other Conservation subcategory	BA	N/A	300	300
Urban and Historic Preservation subcategory	BA	N/A	160	160
Adjustment for the Preview Report	BA	N/A	....	13
Preview Report Urban and Historic Preservation subcategory	BA	N/A	160	173
Payments in Lieu of Taxes subcategory	BA	N/A	50	50
Federal Deferred Maintenance subcategory	BA	N/A	150	150
Coastal Assistance subcategory	BA	N/A	440	480
Adjustment for the Preview Report	BA	N/A	....	2
Preview Report Coastal Assistance subcategory	BA	N/A	440	482
Unallocated	BA	N/A	120	225
Adjustments for the Preview Report:				
Changes in Concepts and Definitions	BA	N/A	–25	....
	OL	N/A	–4	....
Adjusment pursuant to BEA Section 251(b)(2)(H)(i)	BA	N/A	N/A	2
	OL	N/A	N/A	....
Preview Report Conservation Category Spending Limits	**BA**	**N/A**	**1,735**	**1,922**
	OL	**N/A**	**1,469**	**1,872**

Table 14–2. DISCRETIONARY SPENDING LIMITS—Continued

(In millions of dollars)

		2001	2002	2003
OTHER DISCRETIONARY SPENDING				
Final Sequestration Report Other Discretionary Spending Limits	**BA**	**660,803**	**704,548**	**N/A**
	OL	**620,606**	**696,092**	**N/A**
Adjustments for the Preview Report:				
No Adjustments	BA	....	....	N/A
	OL	....	....	N/A
Subtotal, Adjustments for the Preview Report	BA	....	....	N/A
	OL	....	....	N/A
Preview Report Other Discretionary Spending Limits	**BA**	**660,803**	**704,548**	**N/A**
	OL	**620,606**	**696,092**	**N/A**
TOTAL DISCRETIONARY SPENDING				
Final Sequestration Report Total Discretionary Spending Limits	**BA**	**660,803**	**706,308**	**1,922**
	OL	**652,165**	**731,329**	**36,503**
Adjustments for the Preview Report	**BA**	....	**–25**	....
	OL	....	**–4**	**–1,020**
Preview Report Total Discretionary Spending Limits	**BA**	**660,803**	**706,283**	**1,922**
	OL	**652,165**	**731,325**	**35,483**

N/A = Not Applicable

After consultation with the Congressional Budget Committees and CBO, OMB has included several changes in account classification in this year's budget. First, OMB has fixed a classification error and reclassified receipts generated by the National Defense Stockpile Transaction Fund as mandatory. Additionally, the Committees, OMB and CBO agreed to reclassify the Department of the Interior Services Charges, Receipts, and Forfeitures account as discretionary from mandatory, and the Department of the Interior Park Police Pensions account as mandatory from discretionary. Since there are no explicit overall discretionary caps for FY 2003, no adjustment is required for these reclassifications.

OMB has also decided to consolidate all FY 2002 appropriations in the State Wildlife Grants account within the conservation spending category. To properly represent the effects of this consolidation, OMB has adjusted the FY 2002 enacted levels for conservation spending downward by $25 million in the budget and made a corresponding reduction of the same amount to the FY 2002 conservation category spending limits.

Appropriations for conservation spending in FY 2002 fell below the overall limit for the category by $2 million. Pursuant to BEA section 251(b)(2)(H)(i), the 2003 budget authority limits for conservation spending have been adjusted upward by that amount. Appropriations within two of the conservation spending sub-categories for FY 2002 also did not meet the established limits for those activities. Specifically, the Coastal Assistance sub-category received $2 million less than its limit of $440 million, and the Urban and Historic Preservation sub-category received $13 million less than its limit of $160 million. As a result, the amounts by which these appropriations fell below the conservation sub-category caps have been added to the appropriate FY 2003 sub-category spending limits, as required by the BEA in section 251(b)(2)(H)(ii).

In addition, section 8101 of TEA–21 requires OMB to revise the highway spending limits for changes in actual and estimated federal gasoline tax receipts, relative to the receipt levels assumed in TEA–21. For example, if actual tax receipts exceed the TEA–21 assumed levels, OMB is required to increase the limit for the budget year. This adjustment permits funding to be consistent with the level of taxes that are collected and earmarked for highway spending. OMB has no discretion when making this adjustment; its role is purely ministerial. The highway category adjustments in this report are notable in that they break from the recent pattern of upward revisions to highway category spending limits.

Over the past several years, actual and estimated gasoline tax receipts exceeded the levels assumed in TEA–21. Accordingly, OMB applied the formula as specified in the legislation and increased the highway category obligation limitations by $3.1 billion in 2001 and $4.5 billion in 2002. In 2003, however, the TEA–21 formula is estimated to produce a nearly –$5.0 billion downward adjustment in the highway obligation limitation. The resulting FY 2003 highway outlay limit is below the FY 2002 outlay limit by -$0.9 billion. This is due both to actual gasoline tax receipts being lower than anticipated in 2001 and revised Treasury projections of gasoline tax receipts for 2003.

The adjustment for the mass transit category captures changes in technical assumptions about the rate at which mass transit obligations will be spent. This report includes an upward adjustment of $0.5 billion dollars to the mass transit category limits due to these revised technical assumptions. Table 3 details the adjustments to the highways and mass transit category limits and how those adjustments have been calculated.

Table 14–3. ADJUSTMENTS TO THE HIGHWAY AND MASS TRANSIT CATEGORIES FOR CHANGES IN RECEIPTS AND TECHNICAL ASSUMPTIONS

(In millions of dollars)

	2001	2002	2003
HIGHWAY CATEGORY			
Obligation Limitation Assumed in FY 2002 Preview Report	**30,216**	**32,310**	**28,233**
Adjustments:			
Difference Between Current and Previous Estimate of FY 2003 Highway Tax Receipts	N/A	N/A	–1,497
Difference Between FY 2001 Actual and Estimated Highway Tax Receipts	N/A	N/A	–3,468
Subtotal, Obligation Limitation Adjustment	N/A	N/A	–4,965
FY 2003 Preview Report Obligation Limitation	**30,216**	**32,310**	**23,268**
Outlay Limits in FY 2002 Preview Report	**26,920**	**28,489**	**29,100**
Adjustments:			
Decrease in FY 2003 Obligation Limitation	N/A	N/A	–1,341
Changes in Technical Assumptions:			
Reestimate of Outlays from Obligation Limitation level, Adjusted to Include Outlays from change in Obligation Limitation	N/A	N/A	27,581
Reestimate of Outlays from Obligation Limitation level, Adjusted to Include Outlays from change in Obligation Limitation	N/A	N/A	27,759
Adjustment for Changes in Technical Assumptions	N/A	N/A	–178
Total Adjustments	N/A	N/A	–1,519
Outlay Limits in FY 2003 Preview Report	**26,920**	**28,489**	**27,581**
MASS TRANSIT CATEGORY			
Outlay Limits in FY 2002 Preview Report	**4,639**	**5,275**	**5,531**
Adjustment:			
Changes in Technical Assumptions:			
Reestimate of Outlays from Obligation Limitation Using Current Technical Assumptions	N/A	N/A	6,030
FY 2001 Preview Report Outlays	N/A	N/A	5,531
Adjustment for Changes in Technical Assumptions	N/A	N/A	499
Outlay Limits in FY 2003 Preview Report	**4,639**	**5,275**	**6,030**

Comparison of OMB and CBO discretionary limits.—Section 254(d)(5) of the BEA requires this report to explain the differences between OMB and CBO estimates for discretionary spending limits. However, CBO was unable to supply OMB with its FY 2003 discretionary spending limit estimates by the publication deadline for this document. As a result, no comparison is included.

III. PAYGO Sequestration Report

This section of the Preview Report discusses the enforcement procedures that apply to direct spending and receipts. The BEA defines direct spending as entitlement authority, the food stamp program, and budget authority provided by law other than in appropriations acts. The following are exempt from PAYGO enforcement: Social Security, the Postal Service, legislation specifically designated as an emergency requirement, and legislation fully funding the Federal Government's commitment to protect insured deposits.

The BEA requires a sequestration to offset any net cost resulting from legislation enacted before October 1, 2002, that affects direct spending or receipts.

Sequester determinations.—The BEA requires OMB to submit a report to Congress estimating the change in outlays or receipts for the current year, the budget year, and the following four fiscal years resulting from enactment of PAYGO legislation. The estimates, which must rely on the economic and technical assumptions underlying the most recent President's budget, determine whether the PAYGO requirement is met. The PAYGO process requires OMB to maintain a "scorecard" that shows the cumulative net cost impact of such legislation. This Report shows how these past actions affect the upcoming fiscal year.

In recent years, the PAYGO constraints have been skirted. For 2002, net costs of $130.3 billion were removed from the PAYGO scorecard. Since 1998, net costs totaling $176.2 billion have been either exempted or removed from the scorecard.

Table 4 shows OMB estimates of current balances on the PAYGO scorecard. For legislation enacted this year, the 2002 impact will be added to the balance for 2003 in the Final Sequester Report that OMB is to issue after the 2nd session of the 107th Congress adjourns sine die. The current PAYGO scorecard shows net costs of $110.7 billion for 2003 and a total of $505.8 billion for 2003 through 2006.

Table 14–4. PAY-AS-YOU-GO SCORECARD

(In millions of dollars)

	2002	2003	2004	2005	2006	Total 2003–2006
Pay-as-you-go scorecard:.						
Revenue impact of enacted legislation	....	–86,866	–106,319	–107,744	–126,474	–427,403
Outlay impact of enacted legislation	....	23,828	23,538	22,827	8,224	78,417
Total, net cost impact of enacted legislation.	....	110,694	129,857	130,571	134,698	505,820