BUDGET REFORM PROPOSALS

14. BUDGET REFORM PROPOSALS

On September 30, 2002, the budget regimen that enforced fiscal restraint for most of the past decade expired. The Budget Enforcement Act of 1990, originally enacted to address budget deficits, was an effective constraint until budget surpluses surfaced in 1998. With growing surpluses, the Act's requirements were either circumvented or explicitly waived. The Administration will send the Congress a comprehensive budget enforcement legislative package shortly after the Budget is transmitted. This chapter provides an overview of the Administration's proposals.

Discretionary Caps and PAYGO

Discretionary Caps.—The Administration proposes to set limits for 2005 through 2009 on net budget authority and outlays equal to the levels proposed in the 2005 Budget. Legislation that exceeds the discretionary caps would trigger a sequester of non-exempt discretionary programs. Table 14–1 displays the total levels of discretionary budget authority and outlays proposed for 2005 through 2009. This approach would put in place a budget framework for the next five years that ensures reasonable, but modest growth in discretionary programs. The proposal discontinues separate caps for conservation programs and provides for a single, discretionary cap with separate firewalls for Transportation programs only. A single cap restrains overall discretionary spending growth, while providing the President and Congress the greatest flexibility for making decisions on the allocation of these resources.

Within the discretionary levels, the Administration will propose an adjustment for spending above a base level of funding for Social Security Administration Continuing Disability Reviews (CDRs). Additional spending on CDRs has proven to reduce erroneous payments in this program. In the past, every $1 expended on CDRs has produced a $10 return to the taxpayer. The Administration's proposed adjustment in 2005 is $561 million for these activities. The Administration will support an adjustment above the baseline amount not to exceed a total funding level of $604 million in 2006 and $662 million in 2007 through 2009 for these activities.

Transportation Firewalls.—The Administration's proposal for discretionary caps includes separate firewalls for spending on Federal Highway and Mass Transit programs. The Transportation levels will be financed by dedicated revenues over a six-year period from 2004 through 2009. This structure is consistent with the 2004 through 2009 estimates provided in the 2005 budget. As in the previous authorization, the Transportation Equity Act for the 21st Century, the Highway obligations would receive an annual adjustment reflecting updated revenue estimates beginning in 2006. Table

Table 14–1. GENERAL PURPOSE DISCRETIONARY CAPS AND ADJUSTMENTS

(Amounts in billions of dollars)

	2005	2006	2007	2008	2009
Proposed Discretionary Spending Categories:					
Discretionary Category:					
Budget authority	813.8	842.3	867.0	892.4	918.0
Outlays	872.7	850.7	862.8	881.3	900.3
Proposed Cap Adjustment:					
SSA Continuing Disability Reviews:					
Budget authority	0.6	0.6	0.7	0.7	0.7
Outlays	0.6	0.6	0.7	0.7	0.7
Total, Discretionary Category:					
Budget authority	814.4	842.9	867.6	893.0	918.7
Outlays	873.3	851.4	863.5	881.9	901.0
Highway Category:					
Outlays	33.2	33.9	34.2	34.5	34.7
Mass Transit Category: [1]					
Outlays	7.5	7.0	6.7	6.5	6.6
Total, All Discretionary:					
Budget authority	814.4	842.9	867.6	893.0	918.7
Outlays	914.0	892.3	904.4	922.9	942.3
Project BioShield Category:					
Budget authority	2.5	....	....	....	2.2

[1] Includes prior-year outlays from general fund budget authority provided in years prior to 2004. Outlays from general fund budget authority for 2004 and beyond are included in the Discretionary Category.

Table 14–2. TRANSPORTATION GUARANTEE FOR HIGHWAYS AND MASS TRANSIT SPENDING

(Amounts in billions of dollars)

	[1]2004	2005	2006	2007	2008	2009
Transportation Guarantee:						
Highways:						
Obligation Limitations	34.3	34.6	34.7	34.7	34.7	34.7
Outlays	31.2	33.2	33.9	34.2	34.5	34.7
Mass Transit: [2]						
Obligation Limitations	5.8	6.0	6.0	6.0	6.0	6.0
Outlays	7.6	7.5	7.0	6.7	6.5	6.6
Memorandum:						
Discretionary budget authority for Mass Transit not under the Transportation Guarantee:						
Budget authority	*1.5*	*1.3*	*1.3*	*1.3*	*1.3*	*1.3*

[1] 2004 is displayed to show the Administration's complete SAFETEA proposal for Highway and Mass Transit programs through 2009.
[2] Includes prior-year outlays from general fund budget authority provided in years prior to 2004. Outlays from general fund budget authority for 2004 and beyond are included in the Discretionary Category.

14–2 displays the Administration's Transportation proposal.

Project BioShield Category.—The Administration proposes to create a separate BEA category for budget authority (BA) for Project BioShield, which received an advance appropriation for 2005 of $2.5 billion and for 2009 of $2.2 billion in P.L. 108–90, the 2004 Department of Homeland Security Appropriations Act. Because the success of this program in providing for the development of vaccines and medications for biodefense depends on an assured funding availability, it is critical that this funding not be diverted to other purposes. As a result, the Administration proposal to create a separate category will help ensure the funding for this program is not reduced and used as an offset for other discretionary spending.

Pay-As-You-Go (PAYGO) Extension.—The Administration proposes to extend the pay-as-you-go requirement for mandatory spending only. Revenue legislation would not be subject to this requirement. The five-year impact of any proposals affecting mandatory spending would continue to be scored. Table 14–3 displays the President's direct spending proposals. Legislation that exceeds the pay-as-you-go requirement over a two-year period would trigger a sequester of direct spending programs. The 2005 Budget identifies as "PAYGO" only legislative proposals that change direct spending.

In the case of the President's proposed health care credit, the Budget includes contingent offsets that would cover the estimated increases in mandatory spending that would result from this proposal. When the Congress moves legislation to implement the President's health care credit proposal, the Administration will work with the Congress to offset this additional spending.

Advance Appropriations

An advance appropriation becomes available one or more years beyond the year for which its appropriations act is passed. BA 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 and increased to $23.4 billion in 2000.

Table 14–3. PAYGO PROPOSALS

(Cost in millions of dollars)

	2004	2005	2006	2007	2008	2009	2005–2009
PAYGO proposals:							
Refundable Portion of the Health Care Tax Credit	....	82	3,760	5,041	6,388	7,133	22,404
Contingent Offset for Refundable Portion of the Health Care Tax Credit	....	–82	–3,760	–5,041	–6,388	–7,133	–22,404
Medicaid/State Children's Health Insurance Program Proposals	175	–653	–891	–965	–1,022	–1,075	–4,431
Extension of Bureau of Customs and Border Protection's Fees	....	–820	–1,391	–1,448	–1,507	–1,570	–6,736
Reclassification of Nuclear Waste Disposal Fees as Discretionary	....	749	754	757	767	767	3,794
Extension of Spectrum Auction Authority and Authorization of Fees	....	....	–50	1,850	1,700	–3,100	400
Other Proposals	6	–597	–652	463	–614	–579	–1,975
Total	**181**	**–1,321**	**–2,231**	**657**	**–676**	**–5,557**	**–8,947**
Total, 2004 and 2005	....	**–1,140**	....	....	....	....	....

Because this budget practice distorts the debate over Government spending and misleads the public about spending levels in specific accounts, the President's budget proposals and the 2002 Congressional Budget Resolution capped advance appropriations at the amount advanced in the previous year. This year, the Administration proposes that total advance appropriations, excluding BioShield, continue to be capped in 2005 through 2009 at the 2002 level so that increases in these and other programs will be budgeted and reflected in the year of their enactment. Accordingly, the 2005 Budget freezes all advance appropriations at their 2002 levels, except for those that should be reduced or eliminated for programmatic reasons. To enforce these levels, the discretionary cap proposal provides that any advance appropriations provided in an appropriations act for 2005 through 2009 in excess of the advance appropriations provided in 2002 will count against the discretionary cap in the year enacted.

Include Stricter Standard For Emergency Designation in the BEA

When the BEA was created, it provided a "safety-valve" to ensure that the fiscal constraint envisioned by the BEA would not prevent the enactment of legislation to respond to unforeseen disasters and emergencies such as Operation Desert Storm, Hurricane Andrew, or the terrorist attacks of September 11, 2001. If the President and the Congress separately designated a spending or tax item as an emergency requirement, the BEA held these items harmless from its enforcement mechanisms. Initially, this safety valve was used judiciously, but in later years its application was expanded to circumvent the discretionary caps by declaring spending for ongoing programs as "emergencies." Declaration of the 2000 Census as an emergency requirement—despite being required by the Constitution—is but one egregious example.

The Administration proposes to include in the BEA a definition of "emergency requirement" that will ensure high standards are met before an event is deemed an "emergency" and therefore exempt. This definition should include the following elements: the requirement is a necessary expenditure that is sudden, urgent, unforeseen, and not permanent. These elements, all of which would be necessary for defining something as an emergency, are defined as follows:

- **necessary expenditure**—an essential or vital expenditure, not one that is merely useful or beneficial;
- **sudden**—quickly coming into being, not building up over time;
- **urgent**—pressing and compelling, requiring immediate action;
- **unforeseen**—not predictable or seen beforehand as a coming need (an emergency that is part of the average annual level of disaster assistance funding would not be "unforeseen"); and
- **not permanent**—the need is temporary in nature.

The Administration proposal would also require that the President and Congress concur in designating an emergency for each spending proposal covered by a designation. This would protect against the "bundling" of non-emergency items with true emergency spending. If the President determines that specific proposed emergency designations do not meet this definition, he would not concur in the emergency designation and no discretionary cap adjustment or PAYGO exemption would apply.

Baseline

The Administration proposes several changes to Section 257 of the BEA, which establishes the requirements for the baseline:

- Correct the overcompensation of baseline budgetary resources for pay raise-related costs due to the way in which these costs are inflated. The current requirement, which provides a full year's funding for pay raises in the budget year and beyond, was written when Federal pay raises were scheduled to take effect on October 1, at the start of each fiscal year. However, this requirement is now inappropriate because the effective date for pay raises is now permanently set by law as the first pay period in January. By treating pay raises that begin on January 1 as if they take effect for the entire fiscal year, the baseline overstates the cost of providing a constant level of services.
- Eliminate the adjustments for expiring housing contracts and social insurance administrative expenses. Most multi-year housing contracts have expired or have been addressed since the BEA was first enacted in 1990, so the adjustment is no longer needed. The adjustment for social insurance administrative expenses is also inconsistent with the baseline rules for other accounts that fund the costs of administration and should not be singled out for preferential treatment.
- Assume extension of all expiring tax provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 and certain provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003. The BEA currently has inconsistent treatment for mandatory spending and revenues. In the case of major entitlement programs, the law assumes these programs are extended. In the case of 2001 and 2003 tax laws, however, the BEA does not provide for their extension. The BEA's treatment of revenues is also inconsistent. The BEA assumes taxes dedicated to trust funds that are scheduled to expire are extended, but does not assume tax reductions are extended. The provisions that will be extended were clearly not intended to be temporary.
- Add a provision to exclude discretionary funding for emergencies from the baseline. Instead, the baseline would include emergency funding only for the year in which it was enacted. The current requirement is for the discretionary baseline esti-

mates for the budget year and the outyears to assume the current year appropriated level, adjusted for inflation. This is reasonable for ongoing programs, where the need is expected to continue into the future. For emergencies, since the need should be for a short duration, the baseline rules build unnecessary funding into the baseline estimates for the years after the need has been addressed and passed. In effect, the current rule biases the baseline in favor of higher discretionary spending.

Scoring Rule Changes

Federal Pell Grants.—The Pell Grant program provides grant aid to postsecondary students to help pay for their education. While Pell Grant funding is discretionary, if a Pell-eligible student enrolls in school, he or she is automatically eligible for a need-based award up to the maximum award set in appropriations (currently $4,050), regardless of the budget authority appropriated. Pell Grant cost estimates are based on the February Budget's technical and economic assumptions.

The Administration proposes to score budget authority to the appropriators for the amount necessary to cover Pell Grant program costs in the upcoming award year, based on the February Budget's economic and technical assumptions. Currently, Pell Grant outlays are scored based on the full cost of the appropriations provisions (the maximum award and, in some cases, changes to eligibility requirements made in appropriations). However, Pell Grant budget authority is scored at the level specified in appropriations language. The Administration's proposed scoring rule change would remove any incentive to appropriate less than the estimated program cost for the Federal Pell Grant program, or to increase program costs (for instance, by increasing the maximum award) without providing the necessary budget authority.

Pay Raises.—The Administration proposes a rule to enforce the annual pay raise for Federal employees in order to avoid the substantial future costs associated with higher pay raises. To accomplish this, the budget resolution would specify pay raises assumed for military and Federal civilian employees for the budget year. A point of order would lie against any provision containing a pay raise greater than that assumption.

Long-term Unfunded Obligations.—The Administration proposes new measures to prevent enactment of legislation that worsens the long-term unfunded obligations of Federal entitlement programs. As discussed in Chapter 12 of this volume, "Stewardship," spending by the Government's major entitlement programs, particularly Social Security and Medicare, is projected to rise in the next few decades to levels that cannot be sustained, either by those programs' own dedicated financing or by general revenues. The Administration's proposed measures would prevent further legislative increases in the long-run fiscal imbalance.

First, the Administration proposes a point of order against legislation which worsens the long-term unfunded obligation of major entitlements. The specific programs covered would be those programs with long-term actuarial projections, including Social Security, Medicare, Federal civilian and military retirement, veterans disability compensation, and Supplemental Security Income. Additional programs would be added once it becomes feasible to make long-term actuarial estimates for those programs.

Second, the Administration proposes new reporting requirements to highlight legislative actions worsening unfunded obligations. These requirements would require the Administration, as part of the President's budget, to report on any enacted legislation in the past year that worsens the unfunded obligations of the specified programs. The Congressional Budget Office would also be required to make a similar report in its annual publication on the economic and budget outlook.

Other Budget Reform Proposals

Joint Budget Resolution.—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 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 considered, and avoid the "train wrecks" that occurred just prior to expiration of the BEA.

Biennial Budgeting and Appropriations.—Only twice in the last 50 years have all appropriation bills been enacted by the beginning of the fiscal year. Because Congress must enact these 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. According to the Congressional Budget Office, the total amount of unauthorized appropriations in recent years has ranged from roughly $90–$120 billion annually.

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 odd-numbered years, with even numbered years devoted to authorizing legislation.

Line-Item Veto.—A perennial criticism of the Federal Government is that spending and tax legislation often contain provisions benefiting a relative few which would not likely become law if not attached to other bills.

The President proposes that the Congress correct this state of affairs by providing him with a constitutional line item veto. From the Nation's founding, Presidents have exercised the authority to not 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's proposal would correct the constitutional flaw in the 1996 Act.

Specifically, the President proposes a line-item veto linked to deficit reduction. This proposal would give the President the authority to reject new appropriations, new mandatory spending, or limited grants of tax benefits (to 100 or fewer beneficiaries) whenever the President determines the spending or tax benefits are not essential Government priorities. All savings from the line-item veto would be used for deficit reduction, and could not be applied to other spending.

Government Shutdown Prevention.—For 22 out of the past 23 years, Congress has not finished its work by the October 1st deadline, the beginning of the new fiscal year. When Congress fails to enact appropriations bills, it 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.

If Congress does not pass a CR or the President does not sign it, the Federal Government must shut down. 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, there should be a back-up plan to avoid the threat of a Government shutdown, although appropriations bills still would pass on time as the law requires. 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.

Reserve for Fully Accruing Federal Employees' Retirement.—Both the President's 2003 and 2004 Budgets proposed to correct a long-standing understatement of the true cost of thousands of government programs. For some time, the cost of benefits accruing under the Federal Employee's Retirement System (FERS) and Military Retirement System (MRS) and a portion of the accruing benefits of the old Civil Service Retirement System (CSRS) have 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 understated cost information. The Administration recommends that this be re-examined and proposes to work with the Congress to develop a solution that addresses the concerns with the Administration's previous proposals. The 2005 Budget includes a very limited proposal that would permit the Patent and Trademark Office, a fully fee-funded agency, to use the fees it collects to cover the current accruing cost of post-retirement annuities, and health and life insurance benefits.