

CBO REPORT

Final Sequestration Report for Fiscal Year 2002

**A Report to the Congress and the
Office of Management and Budget**

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**CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, SW
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At the end of each session of Congress, the Congressional Budget Office (CBO) issues a final sequestration report, as required by the Balanced Budget and Emergency Deficit Control Act of 1985. This report reflects all legislation enacted through the end of the first session of the 107th Congress.

For fiscal year 2001, discretionary budget authority and outlays (as estimated by CBO for purposes of the Deficit Control Act) fell below the caps for the category of overall discretionary spending.¹ Outlays for both the highway and mass transit categories exceeded their respective limits. The Deficit Control Act requires that the excess outlays for those transportation categories be assigned to the overall discretionary category. Because that excess can be accommodated under the cap on overall discretionary outlays, there is no breach of that cap for 2001.

Estimated spending for 2002 resulting from legislative action to date is within the adjusted caps. In the overall discretionary category, enacted budget authority remains at its limit, and projected outlays are below their ceiling. Estimated outlays for highways and mass transit are equal to their caps, and budget authority and outlays for the new conservation category are slightly below their limits.

Legislation enacted through the end of the first session of the 107th Congress that affects mandatory spending or revenues reduced the surplus in 2001 by an estimated \$76.4 billion and the projected surplus in 2002 by \$52.7 billion. Those reductions will not trigger a pay-as-you-go (PAYGO) sequestration, however, because the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117) instructed the Office of Management and Budget (OMB) to change the PAYGO balances for 2001 and 2002 to zero.

Overview of Sequestration Procedures

The Deficit Control Act created two mechanisms to govern federal spending, both enforced through sequestration (a cancellation of budgetary resources). Section 251 established limits on the spending provided through the annual appropriation process. If estimated discretionary spending exceeds those limits, the act prescribes a sequestration to eliminate the excess. Section 252 established a PAYGO scorecard to record the projected five-year budgetary effects of each piece of legislation that affects mandatory spending or revenues. If such legislation is estimated to result in a net reduction in the surplus (or increase in the deficit), the act calls for mandatory programs (other than those specifically exempt) to be cut by

1. For sequestration purposes, CBO is required to use its estimates of appropriation acts as cleared by the Congress, not actual budget authority or outlays.

enough to offset that change in the surplus (or deficit).

Section 251 of the Deficit Control Act will expire on September 30, the end of fiscal year 2002, and the system of discretionary spending caps will no longer be in effect. For section 252, September 30 will be the last day for which the estimated budgetary effects of mandatory spending or revenue legislation will be recorded on the PAYGO scorecard. However, any balances remaining for 2003 through 2006 that reduce the surplus (or increase the deficit) could lead to a PAYGO sequestration through 2006.

Discretionary Sequestration Report

The caps on discretionary spending apply to four categories in 2002: overall discretionary, highways, mass transit, and conservation. (The last category is a new one created by the Department of the Interior and Related Agencies Appropriations Act, 2001). The limits on highway and mass transit spending apply only to outlays; caps for the overall discretionary and conservation categories cover both budget authority and outlays.²

Adjustments to the Discretionary Spending Limits

Since CBO published its sequestration update report in August 2001, the estimated caps on discretionary spending have changed for three reasons: because of differences between the estimates in that report and in OMB's update report (also published in August), newly enacted spending limits for 2002, and increased spending in several areas (as specified by the Deficit Control Act), including emergency funding enacted since August. Together, those changes raise the 2001 caps to \$660.8 billion for budget authority

and \$652.1 billion for outlays. (As enacted in the Budget Enforcement Act of 1997, the limits for 2001 were originally \$537.2 billion for budget authority and \$564.3 billion for outlays.) The adjusted caps for 2002 total \$706.0 billion for budget authority and \$728.0 billion for outlays (see Table 1).

Differences Between CBO's and OMB's Update Reports. Because OMB's estimates serve as the official basis for determining whether a sequestration is required, CBO first changes its estimates of the caps that appeared in its most recent sequestration report to match the figures in the equivalent OMB report. As a result, CBO has raised its estimates of the limits on overall discretionary outlays for 2001 and 2002 from the amounts shown in its August sequestration update report.

The \$2,885 million increase to the outlay limit for 2001 reflects OMB's use of the special outlay allowance (a provision of the Deficit Control Act that allows a cap increase of 0.5 percent if total discretionary outlays surpass their limit but new budget authority does not exceed its cap). In August, CBO estimated that using the allowance was unnecessary. In addition, minor technical differences between the two agencies in estimating outlays for certain emergency appropriations have caused CBO to raise its estimate of the outlay cap for 2002 by \$21 million.

CBO's and OMB's figures for the highway, mass transit, and conservation limits were identical in August, so no such modifications to those caps are necessary.

Newly Enacted Spending Limits for 2002. The limits on discretionary spending for 2002 were originally established in the Budget Enforcement Act of 1997 (which amended the Deficit Control Act). That law set the cap on overall discretionary budget authority for 2002 at \$551.1 billion and the cap on overall discretionary outlays at \$560.8 billion. In December 2001, legislation raised those limits to \$681.4 billion for budget authority and \$670.2 billion for outlays.³

2. The highway category does not have a cap on budget authority; obligation limitations (which do not count as budget authority) that are set in appropriation acts control all of its spending. A mix of appropriations and obligation limitations controls spending for mass transit, which also has no statutory cap on budget authority.

3. See division C of section 101(a)(1)(A) of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (P.L. 107-117).

Table 1.
CBO's Estimates of the Discretionary Spending Limits for Fiscal Years 2001 and 2002
(In millions of dollars)

	2001		2002	
	Budget Authority	Outlays	Budget Authority	Outlays
Total Discretionary Spending Limits in CBO's August Update Report	640,803	649,066	548,705	572,358
Overall Discretionary Category ^a				
Spending limits in CBO's August update report	640,803	617,507	546,945	537,362
Adjustments				
Technical differences from OMB's August update report	0	2,885	0	21
Increase to comply with division C of P.L. 107-117	n.a.	n.a.	134,496	132,823
Continuing disability reviews	n.a.	n.a.	433	381
EITC compliance initiative	n.a.	n.a.	146	143
Adoption incentive payments	n.a.	n.a.	20	3
Emergency appropriations enacted since OMB's August update report	<u>20,000</u>	<u>131</u>	<u>22,200</u>	<u>21,984</u>
Spending limits as of January 14, 2002	660,803	620,523	704,240	692,717
Highway Category ^b				
Spending limits in CBO's August update report	n.a.	26,920	n.a.	28,489
Adjustment (Technical differences from OMB's August update report)	n.a.	<u>0</u>	n.a.	<u>0</u>
Spending limits as of January 14, 2002	n.a.	26,920	n.a.	28,489
Mass Transit Category ^b				
Spending limits in CBO's August update report	n.a.	4,639	n.a.	5,275
Adjustment (Technical differences from OMB's August update report)	n.a.	<u>0</u>	n.a.	<u>0</u>
Spending limits as of January 14, 2002	n.a.	4,639	n.a.	5,275
Conservation Category				
Spending limits in CBO's August update report	n.a.	n.a.	1,760	1,232
Adjustments				
Technical differences from OMB's August update report	n.a.	n.a.	0	0
Increase to comply with division C of P.L. 107-117	n.a.	n.a.	<u>0</u>	<u>241</u>
Spending limits as of January 14, 2002	n.a.	n.a.	1,760	1,473
Total Discretionary Spending Limits as of January 14, 2002	660,803	652,082	706,000	727,954

SOURCE: Congressional Budget Office.

NOTE: OMB = Office of Management and Budget; n.a. = not applicable; EITC = earned income tax credit.

- a. This category comprises defense, nondefense, and violent crime reduction spending.
- b. The highway and mass transit categories do not have limits on budget authority. Obligation limitations, which are not counted as budget authority, control all of the spending in the highway category and most of the spending in the mass transit category.

In 2002, for the first time, separate caps exist for spending on conservation programs. Legislators appropriated budget authority for that category equal to its cap, but the estimated outlays from that budget authority exceeded their original limit. To avoid a sequestration, the same legislation that increased the limits on overall discretionary spending also raised the cap on conservation outlays by \$241 million.

Other Increases Specified in Law. Under the Deficit Control Act, certain appropriations—for adoption assistance, continuing disability reviews, and incentives to improve compliance with the rules of the earned income tax credit—trigger an automatic increase in the limits on overall discretionary spending. For 2002, those increases boost the caps by \$599 million of budget authority and \$527 million of outlays.

Recently Enacted Emergency Appropriations. CBO has also raised its estimates of the overall discretionary caps to reflect emergency appropriations enacted since the publication of OMB's sequestration update report in August. The 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (P.L. 107-38) provided \$20 billion of emergency budget authority for 2001. Because that legislation was enacted near the end of fiscal year 2001, however, the majority of the outlays will occur in 2002. As a result, the outlay cap has increased by only \$131 million for 2001 but by \$13.4 billion for 2002.

An additional \$20 billion of emergency budget authority for 2002 was attached to this year's defense appropriation act.⁴ Those appropriations fund homeland security, counterterrorism activities, and aid and recovery programs. Other appropriation acts provided an additional \$2 billion of emergency budget authority for 2002, mostly for the Federal Emergency Management Agency's disaster-relief efforts.⁵ Overall, emergency appropriations provided for 2002 added \$22.2 billion to the budget authority cap and \$8.6 billion to the outlay ceiling.

4. See division B of the 2002 defense appropriation act (P.L. 107-117).

5. See the Department of the Interior and Related Agencies Appropriations Act, 2002 (P.L. 107-63); the Legislative Branch Appropriations Act, 2002 (P.L. 107-68); and the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (P.L. 107-73).

Table 2.
Discretionary New Budget Authority and Total Outlays for Fiscal Year 2001 Compared with the Spending Limits (In millions of dollars)

	Budget Authority	Outlays
Overall Discretionary Category		
Estimated Spending	659,626	613,030
Limits as of January 14, 2002	660,803	620,523
Appropriations Over or Under (-) Limits	-1,177	-7,493
Highway Category^a		
Estimated Spending	n.a.	27,294
Limit as of January 14, 2002	n.a.	26,920
Appropriations Over or Under (-) Limits	n.a.	374
Mass Transit Category^a		
Estimated Spending	n.a.	4,992
Limit as of January 14, 2002	n.a.	4,639
Appropriations Over or Under (-) Limits	n.a.	353
Total Discretionary Appropriations		
Estimated Spending	659,626	645,316
Limits as of January 14, 2002	660,803	652,082
Appropriations Over or Under (-) Limits	-1,177	-6,766

SOURCE: Congressional Budget Office.

NOTES: n.a. = not applicable.

The amounts shown here reflect the 2001 appropriation acts, 2001 appropriations advanced in previous years, and outlays from prior-year appropriations, including emergency appropriations.

a. The highway and mass transit categories do not have limits on budget authority. Obligation limitations, which are not counted as budget authority, control all of the spending in the highway category and most of the spending in the mass transit category.

Compliance with the Discretionary Spending Limits

Estimated spending in 2001 for the overall discretionary category was \$1,177 million below the limit on budget authority and \$7,493 million below the limit on outlays (see Table 2). By contrast, outlays in the highway and mass transit categories surpassed their caps by \$374 million and \$353 million, respectively. The Deficit Control Act assigns outlays above the caps for the two transportation categories to the overall discretionary category; adding that \$727 million to overall discretionary outlays does not result in a breach of that cap.

For 2002, budget authority in the overall discretionary category equals its adjusted cap, whereas outlays are \$4,653 million below their adjusted limit, according to CBO's estimates (see Table 3). Outlays for highways and mass transit equal their respective limits. Conservation spending is estimated to be \$2 million below its cap on budget authority and \$81 million below its adjusted cap on outlays.

Pay-As-You-Go Sequestration Report

Both CBO and OMB estimate the annual net cost resulting from legislation that affects mandatory spending or revenues. But, as with the discretionary spending caps, OMB's estimates determine whether a sequestration is necessary. For this report, therefore, CBO has adopted the PAYGO balances shown in OMB's sequestration update report. As of August 15, 2001, OMB estimated that the PAYGO balances were \$75.0 billion for 2001 and \$51.7 billion for 2002 (see Table 4).

CBO estimates that mandatory spending or revenue legislation enacted after August 15 produced a net cost of \$7.8 billion for 2001 and 2002 combined. Of that amount, the Air Transportation Safety and System Stabilization Act (P.L. 107-42) cost an estimated \$3.7 billion in 2001 and \$2.8 billion in 2002. However, portions of that act were designated as emergency requirements, exempting them from the PAYGO scorecard. As a result, CBO estimates that the balances on the PAYGO scorecard are \$76.4 billion for 2001 and \$52.7 billion for 2002.

The Deficit Control Act requires that the PAYGO balances for 2001 and 2002 be combined to determine whether a PAYGO sequestration is necessary for 2002. Although the balances for those years total an estimated \$129.1 billion, the defense appropriation act for 2002 instructs OMB to change the PAYGO balance for 2001 and 2002 to zero, thereby avoiding a PAYGO sequestration.

This is not the first time that lawmakers have eliminated the PAYGO balance for 2001 and 2002. At the end of the first session of the 106th Congress, a combined balance of \$11.4 billion for those years was reset to zero.⁶ The same legislation also excluded \$10.1 billion from being counted against that balance.⁷ One year later, at the end of the second session of the 106th Congress, legislation removed another \$10.5 billion PAYGO balance for 2001.⁸

6. See section 1001(c) of An Act Making Consolidated Appropriations for the Fiscal Year Ending September 30, 2000, and for Other Purposes (P.L. 106-113).

7. See section 1001(b) of P.L. 106-113.

8. See section 2(b) of the Consolidated Appropriations Act, 2001 (P.L. 106-554).

Table 3.
Discretionary New Budget Authority and Total Outlays for Fiscal Year 2002, by Appropriation Act,
Compared with the Spending Limits (In millions of dollars)

	Budget Authority	Outlays
Overall Discretionary Category		
Appropriation Acts		
Agriculture, rural development, Food and Drug Administration, and related agencies (P.L. 107-76)	16,018	16,282
Commerce, Justice, State, and the judiciary (P.L. 107-77)	38,218	38,548
Defense (P.L. 107-117)	317,207	309,254
District of Columbia (107-96)	408	418
Energy and water development (P.L. 107-66)	24,596	24,770
Foreign operations (P.L. 107-115)	15,346	15,106
Interior (P.L. 107-63)	17,800	16,988
Labor, Health and Human Services, and Education (P.L. 107-116)	123,371	107,791
Legislative branch (P.L. 107-68)	2,974	2,941
Military construction (P.L. 107-64)	10,500	9,190
Transportation and related agencies (P.L. 107-87)	15,300	20,201
Treasury and general government (P.L. 107-67)	17,069	16,256
Veterans Affairs, HUD, and independent agencies (P.L. 107-73)	85,434	88,463
2002 emergency supplemental (P.L. 107-117)	20,000	8,459
2002 outlays from the 2001 emergency supplemental (P.L. 107-38)	0	13,397
Total Appropriations	704,240	688,064
Limits as of January 14, 2002	704,240	692,717
Appropriations Over or Under (-) Limits	0	-4,653
Highway Category^a		
Appropriation Acts		
Transportation and related agencies (P.L. 107-87)	n.a.	28,489
Limits as of January 14, 2002	n.a.	28,489
Appropriations Over or Under (-) Limits	n.a.	0

(Continued)

Table 3.
Continued

	Budget Authority	Outlays
Mass Transit Category^a		
Appropriation Acts		
Transportation and related agencies (P.L. 107-87)	n.a.	5,275
Limits as of January 14, 2002	n.a.	5,275
Appropriations Over or Under (-) Limits	n.a.	0
Conservation Category		
Appropriation Acts		
Commerce, Justice, State, and the judiciary (P.L. 107-77)	438	363
Interior (P.L. 107-63)	<u>1,320</u>	<u>1,029</u>
Total Appropriations	1,758	1,392
Limits as of January 14, 2002	1,760	1,473
Appropriations Over or Under (-) Limits	-2	-81
Total Discretionary Appropriations		
CBO's Estimate of Total Appropriations	705,998	723,220
Limits as of January 14, 2002	706,000	727,954
Appropriations Over or Under (-) Limits	-2	-4,734

SOURCE: Congressional Budget Office.

NOTES: P.L. = public law; HUD = Department of Housing and Urban Development; n.a. = not applicable.

The amounts shown here reflect CBO's estimate of the appropriation acts as cleared by the Congress; they comprise appropriations made for 2002, appropriations advanced to 2002 from previous years, and outlays from prior-year appropriations, including emergency appropriations.

Numbers may not add up to totals because of rounding.

- a. The highway and mass transit categories do not have limits on budget authority. Obligation limitations, which are not counted as budget authority, control all of the spending in the highway category and most of the spending in the mass transit category.

Table 4.
Budgetary Effects of Mandatory Spending or Revenue Legislation Enacted Since the
Budget Enforcement Act of 1997 (By fiscal year, in millions of dollars)

Legislation	2001	2002	2003	2004	2005	2006
Total Pay-As-You-Go Balances in OMB's August Update Report	75,004	51,743	104,868	124,797	127,007	130,785
Laws Enacted Since OMB's Update Report ^a						
Federal Firefighters Retirement Age Fairness Act (P.L. 107-27)	0	0	-1	-1	-1	-1
An act to provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001 (P.L. 107-37)	0	5	0	0	0	0
Air Transportation Safety and System Stabilization Act (P.L. 107-42) ^b	1,400	-400	2,400	2,400	800	0
United States-Jordan Free Trade Area Implementation Act (P.L. 107-43)	0	2	2	3	4	4
An act to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country (P.L. 107-46)	0	582	0	0	0	0
An act approving the extension of nondiscriminatory treatment with respect to the products of the Socialist Republic of Vietnam (P.L. 107-52)	0	33	34	36	38	40
Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (P.L. 107-56)	0	104	-220	-174	173	271
Legislative Branch Appropriations Act, 2002 (P.L. 107-68)	0	-2	0	0	0	0
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (P.L. 107-73)	0	32	9	9	10	10
Railroad Retirement and Survivors' Improvement Act of 2001 (P.L. 107-90)	0	249	504	711	780	817
Veterans Education and Benefits Expansion Act of 2001 (P.L. 107-103)	0	229	539	701	780	840
Administrative Simplification Compliance Act (P.L. 107-105)	0	-50	50	0	0	0
National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107)	0	146	-221	156	92	103
Best Pharmaceuticals for Children Act (P.L. 107-109)	0	-8	-5	-4	-7	-15
Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (P.L. 107-117)	0	0	0	0	7	7
Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118)	0	2	3	7	12	17
Pay-As-You-Go Balances as of January 14, 2002 ^c	76,404	52,667	107,962	128,641	129,695	132,878

(Continued)

Table 4.
Continued

Legislation	2001	2002	2003	2004	2005	2006
Memorandum:						
Pay-As-You-Go Balances as of January 14, 2002	76,404	52,667	107,962	128,641	129,695	132,878
Legislation Cleared by the Congress Since OMB's Update Report But Not Yet Signed into Law						
Investor and Capital Markets Fee Relief Act (H.R. 1088)	0	1,261	1,804	1,984	2,152	2,317
Victims of Terrorism Tax Relief Act of 2001 (H.R. 2884)	0	190	96	14	6	6
Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (H.R. 3447)	0	1	1	2	2	2
Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001 (S. 1741)	0	0	0	1	1	1
Total Legislation Enacted or Cleared by the Congress Since OMB's Update Report ^c	76,404	54,119	109,863	130,642	131,856	135,204
Laws Enacted Since OMB's Update Report That Change Mandatory Spending or Revenues But Are Exempt from the PAYGO Scorecard ^a						
Air Transportation Safety and System Stabilization Act (P.L. 107-42) ^b	2,300	3,200	1,500	0	0	0

SOURCE: Congressional Budget Office.

NOTES: OMB = Office of Management and Budget; P.L. = public law; PAYGO = pay-as-you-go.

The information in this table covers legislative action through January 14, 2002. Positive numbers indicate a decrease in the surplus.

a. The following laws enacted since OMB's update report affect the surplus or deficit by \$500,000 or less each year through 2006:

- An act to provide further protection for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes (P.L. 107-30)
- An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in *Brown v. Board of Education* (P.L. 107-41)
- An act to amend the Immigration and Nationality Act to provide permanent authority for the admission of "S" visa nonimmigrants (P.L. 107-45)
- William Howard Taft National Historic Site Boundary Adjustment Act of 2001 (P.L. 107-60)
- An act to authorize the government of the Czech Republic to establish a memorial to honor Tomas G. Masaryk in the District of Columbia (P.L. 107-61)
- An act to authorize the Adams Memorial Foundation to establish a commemorative work on federal land in the District of Columbia or its environs to honor former President John Adams and his legacy (P.L. 107-62)
- An act to amend the Reclamation Recreation Management Act of 1992 in order to provide for the security of dams, facilities and resources under the jurisdiction of the Bureau of Reclamation (P.L. 107-69)
- Aviation and Transportation Security Act (P.L. 107-71)
- Afghan Women and Children Relief Act of 2001 (P.L. 107-81)
- Veterans' Compensation Rate Amendments Act of 2001 (P.L. 107-94)
- An act to amend chapter 90 of title 5, United States Code, relating to federal long-term care insurance (P.L. 107-104)
- Intelligence Authorization Act for Fiscal Year 2002 (P.L. 107-108)
- An act to provide for work authorization for nonimmigrant spouses of treaty traders and investors (H.R. 2277)
- An act to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States (H.R. 2278)
- General Shelton Congressional Gold Medal Act (H.R. 2751)
- Promoting Safe and Stable Families Amendments of 2001 (H.R. 2873)
- Small Business Investment Company Amendments Act of 2001 (S. 1196)
- Higher Education Relief Opportunities for Students Act of 2001 (S. 1793)

b. That act designates certain provisions as an emergency requirement, in accordance with section 252(e) of the Deficit Control Act, which makes them exempt from the PAYGO scorecard.

c. Although the PAYGO balances for 2001 and 2002 are positive, the Defense Appropriations Act, 2002, instructs OMB to change the balances for those years to zero.

