14. THE PRESIDENT'S BUDGET REFORM PROPOSALS

On September 30, 2002, the budget rules that had enforced fiscal restraint for most of the past decade expired. These budget constraints were especially effective in restraining Executive and Legislative Branch action in the initial years of the Budget Enforcement Act (BEA). For these enforcement mechanisms to continue to be effective, budget enforcement rules need to be consistent with current fiscal realities. The Administration will work with the new Congress to develop budget enforcement mechanisms that are consistent with the needs of the country, including future discretionary spending limits and a PAYGO requirement for entitlement spending and tax legislation.

Discretionary Caps and PAYGO

The Administration proposes to extend the BEA's mechanisms for limiting discretionary spending for 2004 and 2005 with spending limits on net budget authority and outlays equal to the levels proposed in the 2004 Budget. Table 14–1 displays the total levels of discretionary budget authority and outlays proposed for 2004 and 2005. Two years is a reasonable period for setting discretionary spending limits. It covers the term of the new Congress, but is not so long that the limits become obsolete in the face of a changing fiscal situation. In addition, reaching agreement on a two-year discretionary framework allows lawmakers and the President to plan more effectively and devote more time to other legislative business the following year.

The Administration also proposes to extend the pay-as-you-go requirement for two years. The Administration would continue to score the five-year impact of any proposals affecting mandatory spending and receipts, but the enforcement mechanisms would be effective for the same two years covered by the discretionary limits. Table 14–2 displays the President's revenue and direct spending proposals. Legislation that exceeds the discretionary spending limits or the pay-as-you-go requirement would trigger a sequester of discretionary or direct spending as appropriate. As in the past, the 2004 Budget continues to label as "PAYGO" legislation that changes mandatory receipts or direct spending.

Table 14–1. PROPOSED DISCRETIONARY SPENDING FOR 2004 AND 2005

(In billions of dollars)

	2004	2005
Proposed Discretionary Spending Before Adjustments:		
BA	780.7	811.5
OL	817.2	848.0
Potential Discretionary Cap Adjustments:		
Nuclear Waste Repository for Yucca Mountain [1]:		
BA	.....	0.5
OL	.....	0.5
SSA Program Integrity Activities (CDRs and redeterminations):		
BA	1.4	1.5
OL	1.4	1.5
EITC Compliance:		
BA	0.1	0.1
OL	0.1	0.1
Total, Proposed for Discretionary Spending:		
BA	782.2	813.5
OL	818.8	850.0
Additional Cap Adjustment Assuming Enactment of Authorization of Retirement Accruals:		
BA	11.1	11.3
OL	11.1	11.3

[1] This adjustment will be modified based on final 2003 appropriations.

Table 14–2. PROPOSED REVENUE AND DIRECT SPENDING POLICY

(PAYGO cost in millions of dollars)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–2008	2004–2013
Revenue Policy	31,087	110,411	109,056	102,386	85,238	86,565	88,940	90,223	186,857	291,629	296,693	493,656	1,447,998
Medicare Modernization	.....	6,000	10,000	33,000	38,000	43,000	46,000	49,000	53,000	58,000	64,000	130,000	400,000
Other Direct Spending Policy	5,467	8,130	3,738	5,192	6,053	7,368	3,293	2,772	3,638	-492	-4,281	30,480	35,410
Total, President's Proposals	**36,554**	**124,541**	**122,794**	**140,578**	**129,291**	**136,933**	**138,233**	**141,995**	**243,495**	**349,137**	**356,412**	**654,136**	**1,883,408**

Discretionary Cap Adjustments

The Administration will announce a comprehensive discretionary cap proposal at a later date. Among its provisions, the proposal will include discretionary adjustments for spending above a base level of funding for certain programs, but not to exceed the amounts proposed in the 2004 Budget. These adjustments would reserve funds for specific purposes within the overall discretionary spending limits. These adjustments include the following:

- Costs associated with developing the nuclear waste repository at Yucca Mountain for 2004 and 2005. The adjustment would be equal to an amount that exceeds the 2003 enacted level, up to a total funding level for the repository program of $591 million in FY 2004 and $1,055 million in 2005. Development of this facility is expected to continue into the next decade; thus, the Administration would expect to continue this adjustment with each BEA reauthorization until the facility is complete.
- Social Security Administration Continuing Disability Reviews (CDRs), SSI redeterminations, and overpayments workload for 2004 and 2005. The Administration will propose an adjustment in 2004 of $1,446 million for these activities. In 2005, the Administration will propose an adjustment greater than the baseline amount not to exceed a total funding level of $1,473 million for these activities.
- Earned Income Tax Credit Compliance Initiative. The Administration will propose cap adjustments in both 2004 and 2005 that would be equal to $100 million above the 2004 base amount of $151 million.
- Reserve for Fully Accruing Federal Employees' Retirement. Funds would be added upon adoption of the Administration proposal of fully funding accruing federal employees' retirement to correct for what has been a significant understatement in the costs of federal retirement. A more detailed discussion of this proposal is included below.

Include Definition of 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 proposal or 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. The BEA allowed the President and Congress to respond to emergency situations by granting a PAYGO exemption or adjusting the discretionary spending limits upwards by an amount needed to respond to emergencies effectively. Initially, this safety valve was used judiciously, but in later years its definition was expanded, in particular, to circumvent the discretionary caps by declaring spending for ongoing programs as "emergencies." Declaration of the 2000 Census as an emergency requirement —despite being regularly required by the Constitution—was but one egregious example.

The President 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 would include the following elements:

- **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 an aggregate level of anticipated emergencies, particularly when normally estimated in advance would not be "unforeseen"); and
- **not permanent**—the need is temporary in nature.

The Administration proposal would require that the President and Congress concur in designating each spending or tax proposal as an emergency. 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, the specific provision would lose its emergency status under the BEA.

Limiting Use of Advance Appropriations

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

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 continue to be capped in 2004 at the 2002 level. Accordingly, the 2004 Budget freezes all advance appropriations at their 2002 levels, except for those that should be reduced or eliminated for programmatic reasons.

Reserve for Fully Accruing Federal Employees Retirement

The President's 2003 Budget proposed to correct a long-standing understatement of the true cost of 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, a portion of military health care and all civilian 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 (see also "Charging Full Annual Budgetary Cost" in Chapter 1: "Budget and Performance Integration").

The 2004 Budget re-proposes this and presents the amounts associated with shifting this cost from central accounts to affected program accounts, starting in 2004. In an effort to respond to the concerns highlighted by the House and Senate Appropriations Committees in their 2003 appropriations bill reports, the presentation of this proposal is different this year. Unlike the 2003 Budget, where the data were included in the budget request numbers, the data are displayed as non-add, memo entries and, therefore, are not included in the discretionary totals. The memo-entry amounts are shown on a comparable basis for most program accounts in 2002 and 2003, with the exception of the Department of Defense for which comparable data by account were generally not available at the time of the printing of this Budget.

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 requirement to annualize pay raises. This requirement was originally intended to compensate for 3-month delays of the pay raise from the normal October 1 effective date to January 1. In that situation, the current year appropriation would only include BA for 3 quarters of the pay raise, so an extra quarter's worth of pay-related BA had to be added to the inflated level for the budget year, in order to provide a constant level of services. However, this adjustment is no longer necessary because the date for pay raises to take effect is now permanently set by law as the first pay period in January. By adding an extra quarter's worth of pay-related BA, the baseline now overstates the cost of providing a constant level of services.
- Remove Sections 257(c)(2) and 257(c)(3), which allow for adjustments for expiring housing contracts and social insurance administrative expenses. Most multi-year housing contracts have expired and 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.
- Add a provision to preclude extending discretionary funding for emergencies in subsequent years. Instead, under the Administration proposal, the baseline would include emergency funding only for the year in which it was enacted. The current requirement is for the discretionary baseline estimates 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.

Reviewing Sequestration

The BEA included a list of accounts that are exempt from sequestration. The Administration proposes this list be reviewed and updated for legislation enacted since the BEA of 1997. This is necessary to resolve a number of technical issues that have arisen in recent years, and to account for new programs added to the budget during this period.

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 doc-

ument 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 considered, and avoid the "train wrecks" at the end of the year that frequently occur under the current process.

Biennial Budgeting and Appropriations.—Only twice in the last 50 years have all appropriation bills been enacted 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 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.

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. This proposal is also symmetric with the President's proposal for a two-year extension of the discretionary caps and PAYGO.

Line-Item Veto.—A perennial criticism of the Federal Government is that the budget contains too many special interest spending items. The persistence of these special interest items diverts resources from higher priority programs and erodes citizen confidence in Government. Because appropriations bills must be enacted annually to fund the Government, they attract special interest 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.

The President proposes that the Congress correct this imbalance that favors special interest spending 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.

Government Shutdown Prevention.—For 21 out of the past 22 years, Congress has not finished its 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 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 should 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.