INFORMED BUDGETEER:

Bob Damus

June 24, 1945 – November 29, 2000

The *Bulletin* and all members of the federal budget community were shocked and saddened at the recent death of Bob Damus. Bob was General Counsel at OMB. He had served three Presidents while at OMB. A master of the legal nuances of the Budget Act, he assisted all three branches of government in drafting, interpreting and making the federal budget process function. A loving husband, a wonderful father, a powerful intellect who avoided both arrogance and envy, a great public servant, and a friend. Bob, we will miss you but never forget you. Our deepest sympathies to Bob's wife Pam and their two children Betsy and David.

HAVE SEQUESTERS GONE THE WAY OF SMALLPOX?

- Will sequesters be viewed by future students of the budget process as something horrible that happened in the past but which, thank goodness, no longer have a chance of reoccuring? The future may be here.

- OMB is required by law to issue three sequester reports during a given budget cycle: a "preview" report in conjunction with the release of the President's budget, an "update" report on August 20, and a "final" report, 15 days after the end of session.

- As reported in the September 18 *Bulletin*, OMB estimated in its update report that legislation enacted between January 3, 2000 (when the scorecard was set to zero by the Consolidated Appropriations Act of 2000) and August 31, 2000, reduced the surplus by $42 million in 2000 and by $1.155 billion in 2001. When added together, a sequester of $1.197 billion would result, which translates into an across-the-board reduction of 0.5 percent of non-exempt direct spending programs, including Medicare.

- The latest paygo report from OMB, dated November 27, 2000, reports that legislation enacted in the second session of the 106th Congress through October reduced the surplus by $42 million in 2000 and $1.838 billion in 2001. These figures do not yet take into account possible direct spending and revenue legislation not yet enacted that could have large impacts on the surplus, such as BBA Medicare give-backs.

- Does this mean that unless legislation to offset the cumulative paygo losses is enacted, we could be facing a big across-the-board sequester? Not necessarily.

- At the end of its paygo report for each direct spending or revenue change bill enacted, OMB has included the following note: "The cumulative effect of direct spending and revenue legislation to date is currently estimated to result in an end-of-session sequester. The Administration looks forward to working with the Congress to ensure that an unintended sequester does not occur."

- Legislative language in H.R. 2614 (the conference report which includes minimum wage, BBA givebacks and tax relief) to the rescue! Section 731 of H.R. 5542 (the tax relief portion of the overall conference report) contains language which directs that in the final sequestration report for fiscal year 2001, the Director of OMB shall change the pay-go balance for fiscal year 2001 to zero, thus ensuring that a sequester would not be required for 2001. Note however that the language does not alter the pay-go balances for any subsequent fiscal year. Consequently, the possibility of future sequestration remains.

- Thus our advice to those putting together the final legislative packages for the 106th Congress: get your sequestration vaccination now. For a number of reasons, it appears that the conference report accompanying H.R. 2614 will not see the light of day in its present form. Thus it is imperative that this paygo language be included *this session of Congress* in some measure which President Clinton will sign. It will be too late if we wait to address this issue in the 107th Congress.

2001 PAY CLARITY: ALL WRAPPED UP WITH A BOW

Federal Employees

- The last *Budget Bulletin* (November 6) discussed the 2001 pay raise for federal civilian employees by reviewing how, under the Federal Employees Pay Comparability Act (FEPCA), federal civilian employees receive both an annual pay adjustment (COLA) and a locality-based comparability payment designed to eventually close a perceived gap relative to private sector pay.

- Since Congress had been legislatively silent concerning the federal civilian employee pay raise this year, the article wondered aloud how the President would rationalize altering the 13% locality payment that would go into effect in 2001 under FEPCA if the President did not submit an alternative pay plan by November 30. The large cumulative adjustment reflects past locality adjustments pared down by President Clinton (using an exception based on "serious economic conditions affecting the general welfare"), who has never agreed with the claim of a pay gap and the methodology underlying that law.

- Since that last *Bulletin*, the President has issued an alternative to FEPCA's locality pay plan. On November 30, he squeaked in under the deadline by issuing a press release that included the text of a letter to the Speaker of the House and the President of the Senate, which will be followed by an implementing executive order that is typically issued the last week of December. The plan authorized an average 1% locality based comparability payment for 2001. Combined with the 2.7% annual pay adjustment, this plan equals his 3.7% request for the pay raise in his budget submission, matching the increase already enacted for the military.

- The President's letter highly praised federal employees and called them "the key to effective government performance." The President stated his commitment to providing federal employees with fair and equitable compensation to recognize their important role, especially since he suggests they have been saddled with an increased workload.

- Nonetheless, the President rejected the larger locality adjustment due under FEPCA, stating that it "would mark a fundamental change of our successful policy of fiscal discipline, and would invite serious economic risks – in terms of the workings of the Nation's labor markets; inflation; the costs of maintaining Federal programs; and the impact of the Federal budget on the economy as a whole." The increase required under FEPCA, he indicated, would have added $9.8 billion to the cost of the raise that he approved in fiscal year 2001 alone.

Members' Pay

- Other brand new federal employees, such as just-elected members of the House and Senate, might be interested to know what their pay will be when they take the oath of office on January 3 [see answer at end]. However, given the media coverage of members' pay, it's understandable that some members might be confused.

- Just as Santa notes who's been naughty and who's been nice, the *Bulletin* has noted which reporting has been sloppy instead of thorough. For example, in October when the congressional leadership rejected a deal with the Administration on the Labor-HHS appropriations bill over the issue of ergonomics regulations, the *Washington Post* reported that President Clinton "retaliated by vetoing a non-controversial spending bill [Treasury-General Government combined with Legislative Branch] that would allow a $3,800 cost-of-living pay increase for lawmakers." But that bill would do nothing of the sort.

- Then a *Roll Call* article appeared it would avoid the same misstep by starting out – "While Clinton never uttered the words 'pay raise' in issuing his veto" – but the article just stepped into it elsewhere by claiming "the President insinuated the salary increase for Congress was part of the reason he had rejected the bill." Yet the article musters not a shred of evidence to support its impression of an insinuation.

- Unfortunately, the same article compounded the confusion by printing quotes from a Senator arguing "that the COLA was actually Clinton's doing, not the GOP Hill leadership": "I think it's demagoguery that [Clinton] even insinuated it was a problem...[because] he asked for it. The [President's] budget asked for the cost-of-living adjustment. We didn't. We just approved this increase."

- Yikes! Where to start? First, the vetoed bill contained no provision – not even a single word – addressing the pay of Members of Congress. Therefore, the pay raise would have gone into effect if the President *had* signed the bill, and the pay raise definitely will occur regardless of whether that bill is *ever* signed.

- The only way members' pay won't increase in January is if the Congress passes and the President signs some law that explicitly prohibits the pay raise from occurring (which does not appear to be in the offing). That is because the 1989 Ethics Reform Act guaranteed that annual pay raises for members would be automatic (unless they are stopped by a subsequent law), in exchange for lawmakers prohibiting themselves from accepting honoraria as a supplemental source of income. (Note: annual member COLAs were legislatively blocked for 1994-1997 and for 1999.)

- Now some will fudge and argue that since the Treasury bill has often been the vehicle by which the Congress has forgone its automatic pay increase over the past decade, its enactment without a provision blocking the pay raise effectively awards the pay raise. Convenient perhaps, but sloppy. For example, the first time the Congress blocked an automatic pay raise due under the Ethics Reform Act was in March 1993. The Emergency Unemployment Compensation Act denied the increase that would have occurred in January 1994.

- Regarding the other misinformation, we offer a few clarifications. The two appropriation bills funding the Legislative Branch and Treasury/General Government are by tradition sent separately, but simultaneously, to the President, since the latter bill includes funding for the White House and the Executive Office of the President. This reflects the notion that the Congress should receive its resources to operate only when the President's operations are funded, and vice versa. This tradition is what President Clinton was referring to when he said, "I cannot in good conscience sign a bill that funds the operation of the Congress and the White House before funding our classrooms..." etc.

- As for the idea that the pay raise can be "proposed" in the President's budget – it is not "proposed", because automatic pay raises are current law and occur without any appropriations or other legislative action. Further, by tradition and practice that observes the separation of powers among branches of government, the *President has nothing to do with the preparation of the budget of the Legislative Branch* (or the budget of the Judicial Branch for that matter). Rather, the President simply reprints the congressional budget request (and therefore reflects the pay increase anticipated under current law) as submitted by Legislative Branch entities, without review, in his budget for the entire U.S. government.

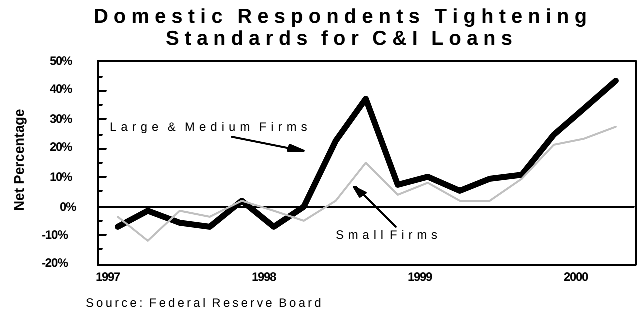
- Why does any of this matter? Why is it important rather than quibbling? As devoted *Bulletin* readers know, the lawmaking process tends to make legislative and budget stuff complicated rather than simple, otherwise we wouldn't need all the budgeteers to work the process. So it's worth getting it right instead of making it up.

- Related Footnote – Do you know what salary the next President, whoever he may be, will be pulling down? Since 1969, the President has received $200,000 annually. But if President Clinton eventually signs the Treasury appropriations bill for 2001, that salary will increase to $400,000. So ironically, when President Clinton vetoed the Treasury appropriations bill, he <u>did not</u> affect the slated pay increase for members of Congress, but he <u>did reject</u> the pay raise for his successor. [Unless changed, pay of members for 2001 will be $145,100.]

ECONOMICS

<u>FED SURVEY INDICATES BANKS MORE CAUTIOUS</u>

- During the Thanksgiving recess, the Federal Reserve released it quarterly Senior Loan Officer Opinion Survey, which indicated banks were tightening their lending standards on firms of all sizes. Of the 57 domestic institutions responding, 44% reported tightening their standards on net for large and medium sized firms compared with only 34% in the previous survey. Despite tighter conditions for business lending, standards for residential mortgages and consumer financing were little changed.



- The big surprise for banks has been the increasing number of firms who have fallen behind on their loans. The Federal reserve reported that over 60% of their larger domestic banks indicated that the deterioration in their Commercial & Industrial (C&I) loan portfolios was "somewhat greater" than they had anticipated. This is typified by the recent high profile announcement that Sunbeam was having difficulties making payments on $1.7 billion it owed to its bank creditors.

- Further more, the Fed's survey indicated that more than half of all responding banks expect to tighten lending standards even further by end-2001. Just as bond markets responded to dimming earnings forecasts earlier in the year by increasing the price of credit to risky borrowers, banks are now calibrating their own perceptions of future cash flows.

CALENDAR

<u>December 13:</u> Staff Briefing by CBO (Members and Congressional Staff only Please). Dirksen 606; 2pm. General overview of GSEs (Fannie Mae/Freddie Mac) and a look at how they have been increasing their debt issuance in an effort to become the defacto replacement for Treasuries. The discussion will additionally explore the possible consequences of expanding GSE debt on the federal govt's unfunded liabilities. CBO will also look at the advantages/disadvantages that GSEs enjoy as they compete with other private issuers to become Treasuries' replacement.

<u>December 14:</u> Staff briefing by GAO (Members and Congressional Staff only Please). Dirksen 606; 10 am. A exploration of the advantages and disadvantages of running the debt stock down. GAO will also discuss how declining debt may affect the policy debate. For instance, while many officials talk about paying off the debt in the next decade, it may not be physically possible to pay-off all the debt. GAO will explore the reasons why. They will also argue that the effects of a declining debt stock will be felt much sooner

than the next decade, and the US could be in a position where annual surpluses exceed the amount of maturing debt in a given year. What will the US do with the excess cash?

December 14: Senate Budget Committee Holiday Party. Dirksen 602; 4-7 pm. Informed Budgeteers are invited to celebrate another year's passing with the staff of the Senate Budget Committee.