

## Welcome to the 107th!

**SORTING OUT OLD BUSINESS**

- Better late than never, the Congress and the President finally completed all the appropriation bills in mid-December. OMB and CBO took their measure of the sum of all appropriation decisions, compared them to the new discretionary caps for 2001, and decided that a sequestration was not required under the law.

<b>CBO and OMB Scoring of 2001 Appropriations Bills Compared to 2001 Discretionary Spending Limits</b>				
by Appropriation Subcommittee, \$ in millions				
		OMB	CBO	Difference
Agriculture	BA	19,623	18,685	938
	OT	16,476	18,237	-1,761
Commerce, Justice, State	BA	38,024	37,524	500
	OT	38,799	37,205	1,594
Defense	BA	287,593	287,590	3
	OT	276,398	277,807	-1,409
District of Columbia	BA	446	446	0
	OT	442	450	-8
Energy and Water	BA	23,591	23,598	-7
	OT	22,962	23,037	-75
Foreign operations	BA	14,901	14,901	0
	OT	15,131	15,272	-141
Interior	BA	18,874	18,883	-9
	OT	16,435	17,284	-849
Labor HHS	BA	108,943	108,921	22
	OT	99,382	98,151	1,231
Legislative branch	BA	2,576	2,578	-2
	OT	2,604	2,560	44
Military Construction	BA	4,951	4,932	19
	OT	2,904	2,119	785
Transportation*	BA	16,827	16,822	5
	OT	48,338	49,235	-897
Treasury Postal	BA	15,627	15,630	-3
	OT	15,223	15,120	103
VA, HUD	BA	82,374	82,556	-182
	OT	87,381	86,666	715
Title I & II of HR 5666**	BA	-92	15	-107
	OT	-156	-115	-41
Full Committee***	BA	0	0	0
	OT	0	768	-768
Total	BA	634,258	633,081	1,177
	OT	642,319	643,796	-1,477
Discretionary Limits****	BA	640,803	640,800	3
	OT	644,806	644,785	21
Total less Discretionary Limits	BA	-6,545	-7,719	1,174
	OT	-2,487	-989	1,508

SOURCE: Senate Budget Committee. \* Does not include \$1.254 billion in mass transit budget authority. \*\*Includes the 0.22% across the board cut for all accounts except, Labor HHS and military personnel. \*\*\*CBO did not disaggregate among the 13 subcommittees the non-defense civilian pay shift into FY 2001 that was enacted as part of FY 2000 appropriations. \*\*\*\*Limits from Final Sequester Reports.

- But OMB and CBO's total figure for all appropriation bills are not the same (see table). OMB scoring says total budget authority for 2001 is \$634.3 billion, while CBO is lower -- at \$633.1 billion. How can this be? Don't the two agencies simply add up the amount appropriated for each account in all the bills, and wouldn't that get you to the same total?
- While the difference might seem large -- \$1.2 billion -- it is small in context of total appropriations; it is only a 0.2 percent difference. Still, there are good explanations for the handful of key scoring differences that account for nearly all of the gap between CBO and OMB.

- Not all budget authority provided in an appropriation bill is enacted at a specific dollar level visible for each account in the bill. For example, the Agriculture appropriations bill, which accounts for most of the total CBO/OMB difference (\$0.9 billion) provides unspecified additional funds for farmers (above and beyond the current mandatory programs under the current farm bill) by changing formulas. OMB estimates that these changes will result in \$0.6 billion more budget authority that will be used under the emergency designation, as well as \$0.3 billion more BA available

under the Anti-Dumping and Dairy Price support programs, compared to CBO.

- The rest of the difference (\$0.3 billion) arises from (partially offsetting) different estimates of the amount of receipts that certain agencies will collect and that are counted as part of the appropriation bills. CBO's estimate of veterans' medical care collections (VA-HUD) is lower by \$0.2 billion, but its estimate of SEC fee receipts and deposits in the Crime Victims Fund (CJS) is higher by \$0.5 billion.

**FINAL 106<sup>TH</sup> CONGRESS SURPLUS STATUS**

- Final CBO estimates of legislative actions taken in the last Congress are now available. The table below revises the previous *Bulletin* piece on this same subject.
- Compared to CBO's projected \$268 billion FY2001 budget surplus made last summer, almost 95% of that surplus remained after Congressional action on tax and spending legislation.
- Of the nearly \$4.6 trillion surplus estimates last July for the period 2001-10, final Congressional action used nearly \$521 billion for tax or spending programs -- resulting in 89% of the surplus for debt reduction.

<b>Surplus Status</b>			
\$ in Billions			
	2001	2001-05	2001-10
<b>Available Surplus:</b>			
Unified surplus CBO July update*	267.8	1695.6	4561.2
<b>Uses of Surplus:</b>			
Social Security surplus- CBO July	165.4	1000.7	2387.7
CBO July Medicare HI surplus	32.1	189.0	360.8
<b>Tax Cuts:</b>			
CSRS contribution rollback	0.5	1.3	1.3
Defense auth. thrift savings plan	0.0	0.3	1.1
Rollover contributions to thrift savings	0.0	0.0	0.1
Tariff Suspension and Trade Act	0.0	0.1	0.1
Foreign Sales Corporation repeal	0.2	1.6	4.5
Export Administration Act penalties	0.0	-0.0	-0.0
Installment Tax Correction Act	1.1	1.8	2.1
Homeowner and Econ. Opport. Act	0.1	0.1	0.2
Commodity Futures Modernization	0.0	-0.0	-0.0
Miscellaneous Appropriations	0.0	0.6	2.0
Community Renewal Tax Relief Act	0.1	7.5	25.7
Botanic Gardens (in leg branch bill)	-0.0	-0.0	-0.0
California Interpretive Trail Act	0.0	-0.0	-0.0
Energy Act of 2000	0.0	-0.1	-0.1
Federal Physicians Comparability	-0.0	-0.0	0.0
Subtotal	2.0	13.4	37.0
Medicare addbacks	3.9	32.3	81.5
Medicaid & S-CHIP	0.0	-15.3	-66.5
<b>DOD Authorization:</b>			
Military Retiree Health Care (mand.)	0.0	18.7	59.9
Other & DOE Money	-0.0	1.0	1.8
<b>Community Renewal Tax Relief Act<sup>A</sup></b>			
On-budget effect	0.3	0.9	1.7
Off-budget effect-change to SS surplus	0.7	2.3	4.1
Other Mandatory <sup>B</sup>	0.7	2.2	4.1
Appropriations w/supplemental	6.2	116.9	276.3
Debt Service	0.6	24.7	120.8
Remaining surplus/add'l debt reduction	56.0	308.8	1292.0
Total Debt Reduction	253.5	1498.5	4040.5
% of Total Surplus for Debt Reduction	94.7	88.4	88.6

SOURCE: Senate Budget Committee. \*Inflated Baseline. <sup>A</sup>Mandatory outlays. <sup>B</sup>Including payments to counties, VA education, & Victims of Terrorism, Division B of Misc. Approps, CJS, Leg Branch Approps.

**BUDGET RESOLUTIONS AND TAX CUTS**

- Now at the start of the 107th Congress *the Bulletin* thought it would be a good idea to refresh everyone as to where we stand with respect to enforcing the Budget Resolution. While the Budget Committees will be crafting the FY 2002 Budget Resolution over the next few months, until then Congress’s consideration of legislation will be measured against the FY 2001 Budget Resolution.
- Remember however that the adoption of a subsequent resolution does not necessarily negate all provisions in the previous one. For example, once the FY 2002 Budget Resolution is adopted, the levels for FY 2001 set out in the 2001 resolution, unless specifically revised, will still be binding. This may have a significant impact on any spending or tax legislation which is considered early this year that impacts the current fiscal year spending or revenue levels.
- When first enacted, the 2001 Budget Resolution authorized \$11.6 billion in tax cuts in 2001 and \$150 billion over the 2001-2005 period. The resolution also included reconciliation instructions to the tax writing committees, providing for two tax reduction bills.
- Senator Domenici later adjusted the 2001 Budget Resolution (under sec. 213) to allow a total of \$16.6 billion in tax cuts in 2001 and \$150 billion over five years. The Senate Finance Committee did report two reconciliation bills, but neither was ultimately enacted.
- Even though reconciliation legislation was not enacted, other legislation that reduced revenues was. So, how much room remains under the revised 2001 Budget Resolution aggregates?
- Tax reduction legislation totaled \$2.5 billion in 2001 and \$16.6 billion for 2001-2005, with the four largest items being the Community Renewal Tax Relief Act, the Trade and Development Act, the Installment Tax Correction and the FSC Repeal.
- That means Congress could reduce taxes by \$14.1 billion in 2001, and by \$133.4 billion for 2001-2005 and still remain within the 2001 Budget Resolution aggregates.

**JANUARY 20<sup>TH</sup>, 2001 CLINTON'S LAST WORKING DAY**

- While President Clinton has left, he has made a lasting impression by issuing a barrage of last minute regulations, executive orders (EOs) and other directives. Many of these EOs will have budgetary consequences which probably have not been included in the outgoing Administration’s baseline estimates.
- EOs are official documents through which the President of the United States manages the operations of the Federal Government. The text of EOs appears in the daily Federal Register as each EO is signed by the President and received by the Office of the Federal Register.
- The following chart includes the number of EOs issued by every administration since President Kennedy:

President	# of EOs Issued
Kennedy	214
Johnson	324
Nixon	346
Ford	169
Carter	320
Reagan	381
Bush	166
Clinton*	355

\*As of January 12, 2001

- Reports of the phenomenon known as “midnight regulations,” which refers to an unusual increase in regulatory volumes during the transition between administrations have recently appeared in the media.
- “Midnight regulations” first made their appearance during the waning days of the Carter Administration when the daily volume of rules was running three times higher than normal compared to the same period during non-election years.
- A list of notable “midnight regulations” issued by the Clinton Administration include requiring cleaner diesel fuel which could drive up the cost of products transported by trucks, a plan making a third (or

58 million acres) of federal land permanently off limits to road building and logging and a batch of regulations imposing new workplace safety rules, including one requiring employers to provide ergonomics programs.

- A paper by Dr. Jay Cochran of the Mercatus Center at George Mason University entitled “The Cinderella Constraint: Why Regulations Increase Significantly During Post Election Quarters” examines the “midnight regulations” phenomenon. His paper finds that the tendency towards “midnight regulations” has recurred in the volume of Federal Register pages (a proxy for regulatory volumes) since 1948.
- Dr. Cochran forecasts that the volume of regulations likely to emerge between November 2000 and January 2001 will be approximately 29,000 additional pages in the Federal Register. This estimate is above the average of 17,400 pages during the same periods in 1993-1999 and represents an increase of more than 65 percent over what has been normal for President Clinton in past years. It is likely that 90,000 pages of new regulations will be published in the final 12 months of the Clinton Administration - 1,000 more than the present record held by the Carter Administration.
- Dr. Cochran reasons that a combination of preferences and institutional parameters compound to produce “midnight regulations.” First, as the clock runs out on an administration, executive term limits work as a binding constraint causing individual’s focus on the deadline to increase as it draws nearer (i.e., Cinderella Constraints) . This causes a race to promulgate as many regulations as possible so as to achieve the executive’s goals before their exit. Second, an implied contract between the Congress and the outgoing Executive is removed. This results in an unconstrained “preference maximization” to issue regulations by the regulatory executives.
- Though it is possible for the incoming administration to reverse a promulgated regulation, rule or executive order, it can be both time consuming and complicated to do so.
- However, when first coming into office 8 years ago Clinton issued an EO that extended the time that senior officials (Bush officials) could not lobby government agencies from 1 year to 5 years. Surprise! Surprise! The outgoing Clinton administration has issued a new EO that reverses the first one on lobbying restrictions. Now senior Clinton officials are only restricted from lobbying for 1 year.

**CALENDAR**

**Senate Budget Committee Hearing Schedule**

All hearings will be held in Dirksen 608 at 10:00 a.m. unless otherwise noted. Additional hearings and witnesses will be scheduled.

**January 25:** Evolving Fiscal Challenges; Witness: Federal Reserve Chairman, Alan Greenspan.

**January 31:** CBO Economic and Budget Outlook; Witness: CBO Director, Dr. Dan Crippen.