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*Pay-As-You-Go Requirement for FY2001: A Procedural
Assessment*

Robert Keith, Government and Finance Division

Updated August 31, 2001

Abstract. The enactment of the Consolidated Appropriations Act for FY2001 and other measures involving direct spending and revenues incurred a net cost for FY2001 of \$10.542 billion. A PAYGO sequester was avoided, however, because Section 2(b) of the Consolidated Appropriations Act instructed the OMB director to reset the PAYGO balance for FY2001 to zero.

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Pay-As-You-Go Requirement for FY2001: A Procedural Assessment

Summary

The Budget Enforcement Act (BEA) of 1990 established a “pay-as-you-go” (PAYGO) requirement for direct spending and revenue legislation as part of an underlying law, the Balanced Budget and Emergency Deficit Control Act of 1985. Under this procedure, legislation proposing new direct spending or decreasing revenues for a fiscal year must not result in a net cost for that year. The PAYGO requirement is intended to keep the on-budget surplus from being reduced (or the on-budget deficit from being increased). This requirement, which has been revised and extended over the years, presently applies to legislation enacted through FY2002 and covers the effects of such legislation through FY2006.

Direct spending, which is expected to amount to more than \$1 trillion in FY2001(excluding net interest), is controlled by the legislative committees of the House and Senate through substantive law and funds entitlement and other mandatory programs, such as Medicare, federal military and civilian retirement, and unemployment compensation. Direct spending is distinguished from *discretionary spending*, which is controlled by the House and Senate Appropriations Committees. Total direct spending includes more than \$400 billion in spending for Social Security, which is not subject to the PAYGO requirement. *Revenues*, which are expected to amount to more than \$2 trillion in FY2001 (including more than \$500 billion for Social Security), are under the jurisdiction of the House Ways and Means and Senate Finance Committees.

The budget resolution for FY2001 (H.Con.Res. 290), adopted on April 13, 2000,assumed significant revenue reductions over five years (FY2002-2006), as well as some net increases in direct spending. Revenue reductions amounting to \$11.6 billion for FY2001 and \$150 billion over five year were expected to be achieved through the reconciliation process.

As the 2000 session unfolded, the House and Senate were stymied in their efforts to enact reconciliation legislation. In particular, President Clinton vetoed the Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810) on August 5, and the House sustained his veto on September 13. At the end of the session, Congress and the President wrapped up business by enacting the Consolidated Appropriations Act for FY2001 (P.L. 106-554: December 21, 2000), which enacted regular appropriations as well as significant direct spending and revenue legislation by cross-reference. According to the OMB director’s *Final Sequestration Report for FY2001*, issued on January 16, 2001, the enactment of the Consolidated Appropriations Act for FY2001 and other measures involving direct spending and revenues incurred a net cost for FY2001 of \$10.542 billion. A PAYGO sequester was avoided, however, because Section 2(b) of the Consolidated Appropriations Act instructed the OMB director to reset the PAYGO balance for FY2001 to zero.

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Pay-As-You-Go Requirement for FY2001: A Procedural Assessment

The Pay-As-You-Go Requirement

The Budget Enforcement Act (BEA) of 1990 established a “pay-as-you-go” (PAYGO) requirement for direct spending and revenue legislation as part of an underlying law, the Balanced Budget and Emergency Deficit Control Act of 1985.¹ Under this procedure, legislation proposing new direct spending or decreasing revenues for a fiscal year must not result in a net cost for that year. The PAYGO requirement is intended to keep the on-budget surplus from being reduced (or the on-budget deficit from being increased). This requirement, which has been revised and extended over the years, presently applies to legislation enacted through FY2002 and covers the effects of such legislation through FY2006.

Direct spending, which is expected to amount to more than \$1 trillion in FY2001(excluding net interest), is controlled by the legislative committees of the House and Senate through substantive law and funds entitlement and other mandatory programs, such as Medicare, federal military and civilian retirement, and unemployment compensation. This amount includes more than \$400 billion in spending for Social Security, which is not subject to the PAYGO requirement. *Revenues*, which are expected to amount to more than \$2 trillion in FY2001 (including more than \$500 billion for Social Security), are under the jurisdiction of the House Ways and Means and Senate Finance Committees.

Direct spending is distinguished from *discretionary spending*, which is expected to amount to about \$650 billion in FY2001. Discretionary spending falls under the control of the House and Senate Appropriations Committees and is provided in annual appropriations acts. For the most part, discretionary spending funds the routine operations of the federal government, including the “salaries and expenses” accounts of most agencies. (The BEA of 1990 subjects discretionary spending to a different enforcement mechanism, adjustable limits on budget authority and outlays, rather than to the PAYGO process.²) Direct spending and discretionary spending together make up total federal spending.

¹The BEA of 1990 is Title XIII of P.L. 101-508 (November 5, 1990), the Omnibus Budget Reconciliation Act of 1990; see 104 *Stat.* 1388-573 through 628. The 1985 act is Title II of P.L. 99-177 (December 12, 1985), a measure increasing the public debt limit; see 99 *Stat.* 1037-1101.

²For more information on this topic, see: U.S. Library of Congress. Congressional Research Service. *Discretionary Spending Limits for FY2001: A Procedural Assessment*, by Robert Keith, CRS Report RL30696 (Washington: August 31, 2001), 9 pages.

The PAYGO requirement, as originally set forth in the BEA of 1990, covered FY1991-1995. It was extended by the Omnibus Budget Reconciliation Act (OBRA) of 1993, through FY1998, and the Budget Enforcement Act (BEA) of 1997, through FY2002.³ As mentioned previously, the PAYGO requirement applies to legislation enacted through FY2002, but it covers the effects of such legislation through FY2006.

With regard to direct spending, the PAYGO requirement applies to outlay levels rather than levels of budget authority. *Budget authority* represents the legal authority for agencies to incur obligations; annual appropriations are perhaps the most well known form of budget authority. *Outlays* represent the liquidation of the obligation, usually in the form of an electronic funds transfer or the issuance of a check by the Treasury Department. Outlays, rather than budget authority, are compared to revenue levels to determine the amount of the surplus or deficit.

The PAYGO balances for each fiscal year are maintained on a rolling PAYGO “scorecard” that accumulates the budgetary effects of laws enacted during the session and in prior years (beginning with FY1991).⁴ The threshold test for a PAYGO sequester deals with how legislation affects the net cost for a fiscal year on the PAYGO scorecard, not how it changes the surplus or deficit for that fiscal year in the federal budget generally.

As the budget moved from an overall deficit to an overall surplus in recent years, and as an on-budget surplus emerged, there was some confusion regarding whether the PAYGO requirement would continue to apply. The concern arose from the fact that the stated purpose of the PAYGO requirement, in Section 252(a) of the 1985 Balanced Budget Act, refers only to legislation “that increases the deficit.” In the report accompanying the FY2000 budget resolution, for example, the House Budget Committee stated:

The law is somewhat unclear whether PAYGO lapses when there is an on-budget surplus. OMB has hinted that PAYGO would indeed lapse if the budget was in balance without counting excess Social Security receipts.⁵

In response to this concern, Jacob Lew, Director of the Office of Management and Budget (OMB), issued a statement indicating that such a position was not correct, stating “we believe that PAYGO does apply when there is an on-budget

³OBRA of 1993 is P.L. 103-66 (August 10, 1993); see Title XIV at 107 *Stat.* 683-685. The BEA of 1997 is Title X of P.L. 105-33 (August 5, 1997); see 111 *Stat.* 677-712.

⁴On several occasions, PAYGO balances have been reset to zero or otherwise modified pursuant to law, primarily to prevent the sizeable savings from reconciliation legislation from being used as offsets to subsequent direct spending increases.

⁵See the report of the House Budget Committee to accompany H.Con.Res. 68 (H.Rept. 106-73), March 23, 1999, at page 87.

surplus.”⁶ The controlling factor, as stated previously, is how legislation changes the balance on the PAYGO scorecard.

Enforcement by Sequestration

The sequestration process, established by the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177) and used to enforce annual deficit targets, was retained by the BEA of 1990 and later laws as the means of enforcing the PAYGO requirement (as well as the discretionary spending limits).⁷ Under current sequestration procedures, the OMB director issues a sequestration report at the time the President’s budget is submitted to Congress (the preview report), midway through the congressional session (the update report), and within 15 days after the end of the session (the final report). The Congressional Budget Office (CBO) issues sequestration reports in advance of the OMB reports, but they are advisory only.

If the OMB director’s final sequestration report indicates that enacted direct spending and revenue levels have incurred a net cost for the fiscal year on the PAYGO scorecard, then the President must immediately issue a sequestration order to remedy the violation through automatic, across-the-board spending reductions.

If a sequester under this process is required, it must occur within 15 calendar days after Congress adjourns at the end of a session and on the same day as any sequestration tied to enforcement of the discretionary spending limits. The sequester would eliminate any net positive balance on the PAYGO scorecard, for that fiscal year and the prior fiscal year combined, caused by the enactment of legislation during the session and in prior years.

Any required reductions would be made in non-exempt direct spending programs. Emergency direct spending and revenue legislation, so designated by the President and in statute, is not covered by the PAYGO sequestration process. As mentioned previously, spending for the Social Security program, except for administrative expenses, is exempt from sequestration, as are many other direct spending programs. Any reductions in Medicare spending are limited to 4%.

Enforcement in the Congressional Budget Process

The congressional budget process, established by the Congressional Budget Act of 1974, contains several mechanisms to enforce decisions regarding the recommended levels of direct spending and revenues. First, under Section 311 of the act, the aggregate levels in the budget resolution serve as a ceiling on total spending and a floor under total revenues. Second, under Section 302 of the act, the total

⁶Letter of April 6, 1999, from OMB Director Jacob Lew to the Honorable John Spratt, ranking minority member of the House Budget Committee.

⁷For a more detailed discussion of the sequestration process, see: U.S. Library of Congress, Congressional Research Service, *The Sequestration Process and Across-the-Board Spending Cuts for FY2000*, by Robert Keith, CRS Report RL30363 (Washington: September 22, 2000), 19 pages.

amount of direct spending in the budget resolution is allocated among the various legislative committees of jurisdiction. Third, Section 310 provides for a reconciliation process, under which the budget resolution may contain instructions to the legislative committees to develop changes to direct spending or revenue laws to bring them into conformity with budget resolution policies. The resultant legislation is considered under expedited procedures in the House and Senate, usually in the form of an omnibus bill. Finally, the so-called elastic clause in Section 301(b)(4) authorizes the budget resolution to “set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.”

Pursuant to the elastic clause authority, the House and Senate sometimes include special procedural features in the budget resolution. The Senate, for example, established a “pay-as-you-go” point of order several years ago which remains in effect. This provision, most recently set forth in Section 207 of the FY2000 budget resolution (H.Con.Res. 68), bars the consideration of any legislation that would increase or cause an on-budget deficit for any one of three applicable time periods: (1) the first year covered by the budget resolution; (2) the first five years covered by the budget resolution; and (3) the five fiscal years following the first five years covered by the budget resolution. Although the Senate’s PAYGO point of order is comparable in purpose to the statutory PAYGO requirement, it differs in that it takes effect during the consideration of legislation rather than after the session ends and it applies to a much longer time frame.

The policies in the budget resolution regarding direct spending and revenue levels may be at odds with the statutory PAYGO requirement. During the past few years, as the deficit changed to a growing surplus, the budget resolution has recommended substantial reductions in revenues, coupled with increases in direct spending, that would incur substantial net costs on the PAYGO scorecard. The “firewall” between the PAYGO process and procedures to enforce the discretionary spending limits does not permit savings from constraints on the growth of discretionary spending to offset or “pay for” revenue reductions. Accordingly, Congress has had to resort to procedural devices to prevent a sequester from occurring while pursuing revenue-reduction legislation.

FY2001 Policy Regarding the PAYGO Requirement

At the beginning of 2000, as Congress and the President prepared to establish budgetary policy for FY2001, the PAYGO balance for that fiscal year (and the ensuing fiscal years as well) was zero. Legislation enacted at the end of the first session of the 106th Congress, the Consolidated Appropriations Act for FY2000 (P.L. 106-113; November 29, 1999) had instructed the OMB director to reset the PAYGO balances to zero on January 3, 2000.⁸

The President’s Budget. President Clinton submitted his budget for FY2001 on February 7, 2000, recommending that Congress pass legislation extending

⁸See Section 1001(c) of the act; 113 *Stat.* 1537.

the PAYGO requirement (and discretionary spending limits) through FY2010.⁹ His budget included recommendations for changes in direct spending programs—particularly for Medicare, Medicaid, and the State’s Children’s Health Insurance Program (SCHIP)—as well as various revenue proposals, including reductions tied to alleviation of the marriage penalty and a partially-offsetting increase in the tobacco tax.

According to an analysis of President Clinton’s proposals made by the Congressional Budget Office (CBO), the direct spending changes would have amounted to a net increase of \$1 billion in outlays for FY2001, and the revenue changes would have yielded a net increase of \$10 billion for that fiscal year, thereby avoiding a PAYGO sequester for the year.¹⁰ The impact of these proposals would have been much more pronounced in the ensuing fiscal years, however, amounting to a net increase in direct spending outlays of \$218 over ten years (FY2001-2010) and a net reduction in revenues of \$146 billion over the same period.

The Congressional Budget Resolution. On April 13, the House and Senate reached final agreement on the budget resolution for FY2001 (H.Con.Res. 290).¹¹ The budget resolution assumed revenue reductions of \$150 billion over five years, beginning with \$11.6 billion for FY2001 and rising to \$44.3 billion for FY2005. Additionally, the budget resolution assumed a total surplus for FY2001 of \$170 billion and some net increases for FY2001 and later years in direct spending. Procedures were included in the budget resolution whereby the amounts of revenue reduction could be adjusted, depending on later estimates of the surplus and other factors. Consequently, congressional budget policy for FY2001 implied action on a procedural device later in the session to prevent a PAYGO sequester for that year.

Reconciliation instructions to the House Ways and Means Committee and the Senate Finance Committee were included in the budget resolution, in Sections 103 and 104, respectively. The instructions were intended to enforce the policy calling for revenue reduction of \$150 billion over five years. In addition, the Ways and Means Committee, but not the Finance Committee, was instructed to reduce the publicly-held debt by \$7.5 billion or more for FY2001.

The reconciliation instructions provided for four reconciliation bills—two revenue reconciliation bills (one to be reported in July and one in September), as well as two debt reconciliation bills (to be reported on the same schedule)—in order to give the House and Senate greater flexibility in fashioning legislation. The second revenue reconciliation bill was intended to afford the House and Senate an opportunity to split potentially contentious matters between the two bills or to have a second chance at enacting reconciliation legislation should the President veto the

⁹U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2001, Analytical Perspectives* (Washington: February 7, 2000), page 286.

¹⁰U.S. Congressional Budget Office. *An Analysis of the President’s Budgetary Proposals for Fiscal Year 2001* (Washington: April 2000), pages x and xi.

¹¹See the conference report on H.Con.Res. 290, H.Rept. 106-577 (April 12, 2000), 95 pages.

first bill. The second debt reduction reconciliation bill was intended to serve as a fallback should the \$11.6 billion in revenue reductions for FY2001 not be enacted; it was meant to ensure that any amounts not used to reduce revenues would be applied to reduction of the debt held by the public rather than being used to increase spending. Additionally, the budget resolution provided some flexibility for further reconciliation actions.

The Republican leadership of the House and Senate modified its budgetary goals in mid-September, focusing on the policy for FY2001 rather than the full five years. In the aftermath of the President's veto of reconciliation legislation (see discussion below), and facing an election-shortened session and the prospect of demands by the President for substantial increases in discretionary spending, the leadership enunciated a policy of devoting 90% of the FY2001 surplus to debt reduction. The remaining 10% of the funds would have been applied to spending increases and revenue reductions.¹²

In its July update report, CBO had revised its estimate of the total budget surplus for FY2001 substantially upward, to \$268 billion, comprising an on-budget surplus of \$102 billion and an off-budget (*i.e.*, Social Security) surplus of \$165 billion. About 90% of the total budget surplus—amounting to \$240 billion and consisting of the Social Security surplus, the Medicare surplus, and \$42 billion of the on-budget surplus—would have been applied to debt reduction under the plan.¹³ Of the remaining \$27 billion or so, about half would have been available for discretionary spending and about half would have been available for revenue reductions.

Implementation of the FY2001 Policy

Congressional Action on PAYGO Legislation. Following adoption of the FY2001 budget resolution, the House and Senate considered various “PAYGO measures” (that is, measures affecting direct spending, revenues, or both). Most of the legislative effort was focused on reconciliation legislation developed in response to the budget resolution, as well as the omnibus appropriations bill that was used to wrap up the session (see discussion below).

In addition to these measures, the following PAYGO legislation with a five-year impact greater than \$1 billion (according to OMB estimates) was enacted into law during the 2000 session:

- Trade and Development Act of 2000, P.L. 106-200 (\$3.1 billion);
- Agricultural Risk Protection Act of 2000, P.L. 106-224 (\$6.8 billion);

¹²See Bureau of National Affairs, *Daily Report for Executives*, “GOP Debt Plans Leaves Adequate Resources for Several Tax Cuts, Key Hill Leaders Say,” and “Ways and Means Panel to Mark Up Bill Applying \$42 Billion to Debt Reduction,” September 14, 2000, No. 179, pages G-9 and G-10.

¹³According to the Senate Budget Committee, taking into account legislative action occurring after the CBO report was prepared increased the total budget surplus to \$273 billion, resulting in \$48 billion of the on-budget surplus for FY2001 being reserved for debt reduction and \$28 billion of that surplus being available for spending increases and revenue reductions. See the committee's newsletter, *Informed Budgeteer*, of September 18, 2000.

- Secure Rural Schools and Community Self-Determination Act of 2000, P.L. 106-393 (\$1.0 billion);
- National Defense Authorization Act for FY2001, P.L. 106-398 (\$19.0 billion);
- FSC Repeal and Extraterritorial Income Act, P.L. 106-519 (\$1.9 billion); and
- Installment Tax Correction Act, P.L. 106-573 (\$2.3 billion).¹⁴

The principal measure developed in response to the reconciliation instructions, the Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810), was passed by the Congress but vetoed by the President on August 5, 2000; the House sustained his veto on September 13.¹⁵ The House also passed a pension reform bill, H.R. 1102, which the Senate Finance Committee transformed into a reconciliation bill during markup. Although the Finance Committee reported the bill, the Senate did not consider it before the session ended. Finally, the House passed three other reconciliation measures dealing with reduction of the publicly-held debt (H.R. 4601, H.R. 4866, and H.R. 5173), as well as another reconciliation bill that joined together revenue reduction and debt reduction (H.R. 5203); none of these measures were considered by the Senate.

As the 106th Congress drew to a conclusion, the House and Senate leadership sought to complete action on various revenue and debt reduction initiatives within the framework of the “90/10” plan mentioned earlier. In addition to pension reform and savings legislation, congressional leaders discussed community renewal proposals, business tax cuts coupled with an increase in the minimum wage, tax credits to underwrite bonds for school construction and Amtrak financing, legislation dealing with the foreign sales corporation system, and other issues.

In addition to encouraging contending parties to reach agreement on policy matters, the leadership had to decide on legislative strategies for advancing possible agreements. The three basic choices with regard to revenue and debt reduction provisions were to attach them to other “must pass” legislation, particularly annual appropriations acts; to consider them as freestanding revenue bills under regular procedures; or to consider them as reconciliation legislation. In the end, the leadership decided to use the first two options and to not use reconciliation procedures any further.¹⁶

¹⁴Dozens of other PAYGO measures, with relatively small effects on the budget, were enacted into law. For a complete listing of these measures, see: U.S. Executive Office of the President, Office of Management and Budget, OMB Final Sequestration Report to the President and Congress for Fiscal Year 2001 (Washington: January 16, 2001), Tables 6 and 7 on pages 14-21.

¹⁵For further information on the reconciliation measures considered in 2000 for FY2001, see: U.S. Library of Congress, Congressional Research Service, *Congressional Action on Revenue and Debt Reconciliation Measures in 2000*, by Robert Keith, CRS Report RL30714 (Washington: February 15, 2001), 11 pages.

¹⁶One factor affecting the decision not to use reconciliation may have been the Senate’s “Byrd rule,” which is found in Section 313 of the 1974 Congressional Budget Act. It bars the consideration of extraneous matter in reconciliation legislation. The time needed to dispose of potentially dozens (or more) of points of order under the Byrd rule could have been

At first, the congressional leadership attempted to use a House-passed bill amending the Small Business Investment Act, H.R. 2614, as a vehicle for wide-ranging issues, including significant revenue reductions. Under the conference agreement on H.R. 2614, the bill would have enacted five other measures by cross-reference, including H.R. 5542, the Taxpayer Relief Act of 2000 (as introduced on October 25, 2000). Section 731(a) of H.R. 5542 included a provision that would have prevented a PAYGO sequester for FY2001.¹⁷ Final congressional action on the measure faltered at the end of October.

As the session moved closer to completion, the annual appropriations process became the chief venue for advancing the revenue-reduction and debt-reduction agenda.¹⁸ Some efforts had been made under this approach earlier in the session. For example, a key revenue proposal, the repeal of the telephone excise tax (first imposed during the Spanish-American War a century ago), had been incorporated into the conference report on the Legislative Branch Appropriations Act for FY2001 (H.R. 4516), which also included Treasury/Postal Service appropriations.¹⁹ The conference report cleared Congress on October 12, but President Clinton vetoed the bill on October 30. Another prominent revenue-reduction proposal, tax credits to underwrite bonds for school construction, had been considered as an addition to the Labor-HHS-Education Appropriations Act for FY2001 (H.R. 4577).

Ultimately, the consideration of the regular appropriations bills for FY2001 was brought to a close with the incorporation of three remaining bills into the Consolidated Appropriations Act for FY2001 (P.L. 106-554; December 21, 2000).²⁰ In addition to incorporating appropriations for the Labor-HHS-Education, Legislative Branch, and Treasury-Postal Service appropriations acts, the bill enacted by cross-reference several other measures, including the Small Business reauthorization that had been used as an omnibus vehicle earlier. These other cross-referenced bills had a significant revenue and direct spending impact. According to OMB estimates, the bill reduced revenues in the net by \$0.7 billion for FY2001 and \$7.3 billion over five years (and increased direct spending by even greater amounts).²¹ Most of the revenue loss was attributed to community renewal tax relief provisions.

¹⁶(...continued)
considerable.

¹⁷See H.Rept. 106-1004, October 26, 2000, pages 185 and 394.

¹⁸The rules of the House and Senate usually prohibit the inclusion of revenue provisions in annual appropriations acts, but the practice occurs under certain conditions. For a discussion of this matter, see: U.S. Library of Congress, Congressional Research Service, *Revenue Provisions in Annual Appropriations Acts*, by Robert Keith, CRS Report 98-846 (Washington: November 23, 1998), 8 pages.

¹⁹The telephone excise tax provision is included in Section 1003 in Division B of the bill; see page 34 of the conference report (H.Rept. 106-796; July 27, 2000).

²⁰For information regarding this bill, see: U.S. Library of Congress, Congressional Research Service, *FY2001 Consolidated Appropriations Act: Reference Guide*, by Robert Keith, CRS Report RS20756 (Washington: December 29, 2000), 6 pages.

²¹See *OMB Cost Estimate for Pay-As-You-Go Calculations*, Report No. 546, January 15, 2001, 2 pages (available at www.whitehouse.gov/omb/legislative/paygo/hr4577.html).

In order to prevent the revenue losses and direct spending increases in the bill (as well as revenue losses and direct spending increases in other bills enacted during the session) from triggering a PAYGO sequester, Section 2(b) of the Consolidated Appropriations Act for FY2001 (114 Stat. 2763-2764) instructed the OMB director to change the balance for FY2001 on the PAYGO scorecard to zero. In addition, Section 2(a) of the act required that the direct spending and revenues in the act for FY2002 and beyond be recorded on the PAYGO scorecard (under conventional scoring rules, changes in direct spending and revenues made in an annual appropriations act are scored under the discretionary spending limits instead of on the PAYGO scorecard).

Annual appropriations acts also were used as vehicles for the implementation of further debt reduction. For example, Title X of the Interior Appropriations Act for FY2001 (P.L. 106-291; October 11, 2000) provided a \$5 billion payment into the account that receives gifts to reduce the public debt.²² A similar approach was used in several of the other regular appropriations acts for FY2001.

The congressional leadership also employed the second option, the consideration of freestanding revenue measures under regular procedures. As indicated earlier, legislation dealing with the Foreign Sales Corporation (FSC) system (P.L. 106-519) and installment tax correction (P.L. 106-573) was enacted as freestanding measures; according to OMB estimates, they reduced revenues over five years by \$1.9 billion and \$2.3 billion, respectively.²³

Issuance of the Final Sequestration Reports for FY2001. The 106th Congress adjourned *sine die* on December 15, 2000. On January 16, 2001, OMB Director Jacob J. Lew submitted to the President and Congress the final sequestration report for FY2001.²⁴

According to the OMB report, legislation enacted during 2000 yielded a balance of \$42 million for FY2000 and \$10.5 billion for FY2001 on the PAYGO scorecard. Combining the two balances as required, the sequester amount would have been \$10.542 billion. However, as required by Section 2(b) of the Consolidated Appropriations Act for FY2001, the OMB director removed the combined balance of \$10.542 billion, leaving a balance of zero and avoiding a PAYGO sequester.

Section 2(b) of the act, as mentioned previously, did not authorize the adjustment of PAYGO balances for future years. These balances, according to the OMB report, accounted for nearly \$75 billion over four years, rising from \$16.053 billion for FY2002 to \$20.673 billion for FY2005.

²²See page 110 of the conference report (H.Rept. 106-914; September 29, 2000).

²³See *OMB Cost Estimate for Pay-As-You-Go Calculations*, Report No. 543, December 7, 2000 (for FSC legislation) and Report No. 550, January 12, 2001 (for installment tax correction legislation).

²⁴U.S. Office of Management and Budget, *OMB Final Sequestration Report for FY2001*, *op. cit.*

The costliest legislation on the PAYGO scorecard was the Consolidated Appropriations Act. Direct spending and revenue changes included in the legislation amounted to \$7.170 billion for FY2001 and \$49.463 billion over five years.

CBO Director Dan L. Crippen issued CBO's advisory final sequestration report on December 29, 1999.²⁵ He indicated a PAYGO balance of \$42 million for FY2000 and \$6.791 billion for FY2001, yielding a combined balance of \$6.833 billion. The major differences between CBO and OMB in PAYGO scoring were attributed to three acts—the Transportation Appropriations Act for FY2001 (P.L. 106-346) and the aforementioned National Defense Authorization Act for FY2001 and the Consolidated Appropriations Act for FY2001.²⁶

²⁵See U.S. Congressional Budget Office, *Final Sequestration Report for Fiscal Year 2001* (Washington: December 29, 2000), 13 pages; it also was released as H.Doc. 107-7 (January 3, 2001).

²⁶The scoring differences are discussed in detail in: U.S. General Accounting Office, *Budget Enforcement Compliance Report*, GAO-01-777 (Washington: June 2001), see especially pages 22-29.