Statutory Limits on Total Spending as a Method of Budget Control

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Summary

Often when there is dissatisfaction with budgetary levels, budget process reforms are proposed to mandate a specific budgetary policy or fiscal objective. This report focuses specifically on one such budget process reform—the concept of creating a statutory limit on total spending.

As discussed in this report, a total spending limit consists of statutory long-term or permanent limits on federal spending coupled with a statutory enforcement mechanism that would make automatic reductions in spending in the event that compliance with the limits is not achieved through legislative action. Such spending limits would comprise any new spending as well as spending that results from previously enacted law. By encompassing all types of spending, and by including a statutory enforcement mechanism, a total spending limit attempts to remedy a perceived limitation of the congressional budget resolution, under which Congress establishes limits on spending in various categories that can be enforced or waived by Congress at its own discretion.

The recent growth in spending, both in dollar terms and relative to the economy, has generated support for total limits on spending. Several groups and organizations have recommended a total spending cap, and on July 19, 2011, the House passed H.R. 2560, the Cut, Cap and Balance Act of 2011, which includes total spending limits for FY2013 through FY2021. In addition, the House-passed budget resolution for FY2012, H.Con.Res. 34, includes a policy statement calling for Congress to enact total spending limits. Other legislative proposals introduced in the 112th Congress include total spending limits, such as S. 245, H.R. 1605, H.R. 1848, and H.R. 2041.

The potential effectiveness of a statutory limit on total spending is complicated by projection uncertainty, unforeseen events, and especially the complex nature of direct spending. Statutory limits have been subject to criticism for ceding Congress's "power of the purse," targeting spending rather than the deficit or debt, attempting to address a budgetary problem through procedure instead of policy changes that would themselves reduce spending, and for other reasons.

This report provides information on the concept of a statutory limit on total spending, including objectives, complications, and criticisms. The report also includes information on the many features of spending limit proposals, which can vary considerably. Lastly, the report provides observations on budgetary controls, similar to statutory spending limits, from an historical perspective.

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Introduction

An array of budget process reform proposals are put forth each year seeking to refine or improve the existing constitutional requirements, laws, and rules that make up the federal budget process.[1] Some proposals are designed not only to modify the budget process, but also to produce specific budgetary outcomes. Particularly popular when there is dissatisfaction with debt or deficit levels, such proposals seek to establish a legal mandate for a budgetary policy or fiscal objective, such as a specific limit on the deficit level, or the requirement for a balanced federal budget. This report focuses specifically on one such budget process reform: the concept of creating a statutory limit on total spending.

A total spending limit, often referred to as an overall spending cap or an omnicap,[2] consists of statutory long-term or permanent limits on federal spending, encompassing both discretionary and direct spending (also referred to as mandatory or entitlement spending).[3] Further, the analysis in this report concerns measures that propose a total spending limit that also include an automatic statutory mechanism to enforce the spending limit in the event that compliance is not achieved through legislative action. This form of cap should be distinguished from other mechanisms that may limit spending, but do not include an automatic means to enforce the specified levels. For example, this report excludes proposals to create total spending limits that are enforced only by points of order, or proposals to institute a constitutional amendment requiring a balanced budget, which generally lack any automatic enforcement mechanism.[4]

Generally, total spending limits would operate by first establishing in statute a specific total spending limit for each year. At some point during each year, Congress would be informed of a projected overall spending total and the amount, if any, by which the statutory spending limit is projected to be breached. After a period of time, during which Congress would presumably attempt to achieve compliance with the spending limits through legislative action, a final determination would be made as to whether the spending limit had been breached. In the event of a breach, an automatic enforcement mechanism would impose reductions in spending. As with many features of the proposals, the proposed enforcement mechanisms could vary significantly. They may include exemptions for specific programs, as well as provide for suspension of enforcement under specific circumstances, such as war.

The recent growth in spending, both in dollar terms and relative to the economy as a whole, has garnered support for total limits on spending. Several groups and organizations have recommended a total spending cap, though few provide detail on what such a legislative proposal

[1] This report assumes some familiarity by the reader with the congressional budget process. For more information on the congressional budget process, see CRS Report RS20368, *Overview of the Congressional Budget Process*, by Bill Heniff Jr.

[2] This last term has been used by the Heritage Foundation. Brian Riedl, *10 Elements of Comprehensive Budget Process Reform*, The Heritage Foundation, June 15, 2006, http://www.heritage.org/research/reports/2006/06/10-elements-of-comprehensive-budget-process-reform?cfid=240494&cftoken=25e2923ef312de5c-212160d1-c63c-b796-be5768b8eceba165.

[3] Discretionary spending is provided annually through the appropriations process and is under the sole jurisdiction of the House and Senate Appropriations Committees. Direct spending is generally provided for in legislation outside of appropriations acts, and is under the jurisdiction of various authorizing committees.

[4] For example, H.J.Res. 1 and S.J.Res. 19 each include a cap on total outlays, but neither measure includes an enforcement mechanism. For more information, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional Options* , by James V. Saturno and Megan Suzanne Lynch.

might include. Some legislative proposals have been introduced in the 112th Congress, however, such as S. 245, introduced by Senator Bob Corker, and a companion measure, H.R. 1605 introduced by Representative John J. Duncan Jr.; H.R. 1848, introduced by Representative Connie Mack; H.R. 2041, introduced by Representative Jack Kingston; and H.R. 2560, introduced by Representative Jason Chaffetz.[5] In addition, the House-passed budget resolution for FY2012, H.Con.Res. 34, includes a policy statement on budget enforcement that calls for Congress to enact total spending limits, and on July 19, 2011, the House passed H.R. 2560, which includes total spending limits for FY2013-FY2021.

The following sections provide a general discussion of the objectives, challenges, and criticisms of total spending limits. The next section of the report discusses typical features of total spending limits and provides information on how they may vary. The final section of the report includes observations on compliance with the spending limits, based on historical experiences with statutory budget controls.

Intended Objectives and Advantages

The main objective of total spending limits appears to be to acknowledge and address a recent growth in federal spending. In FY2000, total federal outlays equaled 18.2% of gross domestic product (GDP). By FY2010, total federal outlays reached 23.8% of GDP. Under the CBO baseline, totals outlays are projected to reach 24.0% of GDP in FY2021 under current policy.[6]

Further, overall spending limits apparently intend to address the growing deficit and debt levels. Concern has grown over an increasing deficit and its potential effect on the nation's fiscal and economic health. The budget deficit each year from 2009 to 2011 has been the highest ever in dollar terms and significantly higher as a share of GDP than in any other year since World War II. The budget is not projected to be on a sustainable path under current policy, in the sense that the federal debt will continue to grow more quickly than GDP. Although there has been no difficulty financing the deficit to date, at some point, investors could refuse to continue to finance deficits that they believed were unsustainable.[7]

Although some lawmakers advocate a combination of spending decreases and revenue increases to address the deficit, proponents of total spending limit proposals have often been associated with the belief that all or much of deficit reduction policy should take place through decreases in spending. Although a spending limit could theoretically be combined with revenue increases, current proponents of spending limits typically seek to assure that reductions in spending be primarily used to confront the growing deficit.

There are additional objectives underlying the concept of statutory spending limits, which is particularly noticeable because the congressional budget resolution already exists as a method of

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[5] Legislative proposals were also introduced in the 111th Congress, such as H.R. 4529, introduced by Rep. Paul Ryan; and H.R. 5323, introduced by Rep. Lamar Smith.

[6] Congressional Budget Office, *The Budget and Economic Outlook FY2011-FY2021*, January 2011, pp.15, Table 1-4 available at http://www.cbo.gov/ftpdocs/120xx/doc12039/01-26_FY2011Outlook.pdf. For more information, see CRS Report R41685, *The Federal Budget: Issues for FY2011, FY2012, and Beyond*, by Mindy R. Levit.

[7] For more information, see CRS Report R41778, *Reducing the Budget Deficit: Policy Issues*, by Marc Labonte.

setting and enforcing desired spending levels.[8] Statutory limits on total spending address at least two perceived limitations of the congressional budget resolution.

First, the levels in the congressional budget resolution are generally enforced by raising points of order on the House and Senate floor against provisions in budgetary legislation. Such an enforcement mechanism relies on Members affirmatively raising points of order against the legislation, and most of these points of order can be waived by a majority or super-majority of each chamber. Further, points of order can limit spending only in new legislation being considered by Congress; they cannot limit spending that results from previously enacted legislation, from which more than half of current spending arises.[9] Total spending limits would establish a more stringent enforcement mechanism, one that would be automatically triggered to make cuts to already enacted spending, and could only be waived though the enactment of further legislation. This could possibly overcome what some perceive as institutional barriers to cutting spending. For example, although many lawmakers may favor decreases in spending, reaching legislative agreement on which programs specifically should be cut is difficult, both procedurally and politically. An automatic reduction mechanism would tend to ensure the occurrence of spending cuts, even without legislative agreement.

Second, although the congressional budget resolution sets a desired level of overall spending for a specific year, the budget resolution is not required to adherence to any specific budgetary policy. Further, Congress is not required to maintain any specific spending levels from one annual budget resolution to the next. The same is true for the President's annual budget submission. Further, no alignment is required between the spending levels proposed in the President's budget submission and those established by the congressional budget resolution. Statutory limits on total spending would establish a federal budgetary policy which would likely require that the spending levels in the President's budget proposal and the congressional budget resolution align. Alleviating future controversy over appropriate levels of overall annual spending may facilitate the development and agreement on substantive policy changes to achieve the spending limits. Furthermore, setting total spending caps would establish a federal budgetary policy that remains consistent year after year, despite changes in the presidency or Congress.

Challenges and Complications

The implementation of any overall spending limit may raise difficulties stemming from several causes. First, as mentioned above, the levels of spending stipulated under any cap would presumably have to be established on the basis of economic and fiscal projections that inherently involve some uncertainty. The level of spending may also be affected by unforeseen events that

[8] The congressional budget resolution was established as a mechanism for coordinating congressional budgetary decision making between the House and Senate, by the Congressional Budget Act of 1974 (P.L. 93-344 as amended). The Budget Act requires that the budget resolution include specific components, several of which limit spending in some way. For more information, see CRS Report 98-815, *Budget Resolution Enforcement*, and CRS Report RS20368, *Overview of the Congressional Budget Process*, both by Bill Heniff Jr.

[9] Congress generally controls discretionary spending levels by enacting annual appropriations, whereas the funding for direct spending programs is typically controlled by laws other than appropriations (although they may be financed through appropriations actions). This means that the level of spending for most direct spending programs is determined each year with no congressional action or decision required, and it will continue until Congress takes some affirmative action to change the program itself. In FY2010, 40% of federal spending was discretionary spending and 55% was direct spending.

budgetary projections cannot take into account even through estimates. Finally, levels of direct spending are especially subject to unpredictable variations.

Using projections as a basis for budgetary decisions can be problematic because they are highly sensitive to small changes in underlying assumptions and economic factors and are subject to substantial margins of error, even over short periods of time. Based on history, actual outcomes can be much better or worse than projections. The Office of Management and Budget (OMB) estimates that the absolute average errors for its budget deficit projections are 1.5% of GDP for the next budget year and 3.5% of GDP for five years in the future.[10] Making programmatic changes to achieve fiscal goals based on these projections, therefore, must be expected to result in changes that ultimately over- or under-shoot what is intended. Furthermore, as described below, under certain circumstances, the need to base estimates on projections may make it possible to generate projections that conform to stipulated targets by appropriate adjustment of the assumptions underlying the projections.

Unforeseen events present a dimension of uncertainty that goes beyond what is inherent to trends in current fiscal and economic activity. Many of the legislative spending increases that occurred in the past decade were due to events that could reasonably regarded as extraordinary or unforeseen, including the terrorist attacks of September 11, 2001, ongoing military operations in Afghanistan and Iraq, Hurricane Katrina and other natural disasters, and the 2008 financial crisis. Creating statutory spending caps may limit Congress's flexibility in responding to future unforeseen events, whether they be natural disasters or situations that Members conclude require increased domestic, defense, or international spending. As described below, some proposals include mechanisms such as waivers or emergency exemptions to deal with such unanticipated events as they occur, although it could be argued that creating such an exemption mechanism risks compromising the overall goals of statutory spending caps.

One of the most intricate complications that overall spending targets must address would arise from their inclusion of direct as well as discretionary spending. Total spending for direct spending programs, which currently makes up over half of total federal spending and is forecast to grow rapidly in the future, is difficult to control or limit for several reasons. First, unlike discretionary spending programs, which are funded through annual appropriations, direct spending programs generally are not controlled through annual appropriations actions, but are instead controlled through other permanent or multi-year laws, meaning that most will automatically continue to operate each year, barring congressional action to the contrary.

Second, direct spending legislation typically results from the establishment of a program that includes eligibility or benefit criteria and a payment formula that together dictate the overall amount the program will spend. The levels of spending resulting from these over any future period can be ascertained only as a projection; in addition, however, the effect on future spending of any policy changes in the program can be estimated in advance only on the basis of assumptions about the effects of the changes themselves. If levels of direct spending are projected to be higher than desired, eligibility criteria or payment formulas must be altered to attempt to achieve the desired funding level. This means that under current circumstances, to affect direct spending, Congress has to choose to develop, consider, and adopt a measure that would adjust

[10] Office of Management and Budget, *FY2012 Budget of the U.S. Government, Analytical Perspectives*, February 2011, p. 471.

eligibility criteria or payment formulas with the hope that the changes would cause direct spending to fall to a desired level.

Accurately predicting the budgetary effect of a policy change on direct spending levels is also difficult. A survey and report by the Government Accountability Office (GAO), titled *Issues in Capping Mandatory Spending*, discusses some of the complicating characteristics of direct spending programs that make achieving a specific spending level very difficult.[11] For example, changing eligibility criteria to eliminate a group of individuals may result in large savings or no savings, depending on how many services those individuals typically use. Also, the use of non-cash benefits makes it difficult to predict costs and savings because eliminating some services, such as nursing home care, could shift demand to other high-cost services, like impatient hospitalization.

All these uncertainties create challenges for Congress in trying to enact legislation that would achieve a desired level of funding. They can also complicate how an enforcement mechanism, such as sequestration, would work. If a direct spending program required an automatic reduction, for example, of 4%, how that might be implemented is not clear. Determining what policy changes to direct spending programs would be necessary to save a specified amount of money could prove very difficult.

Criticisms

Criticisms that have been raised of spending limit proposals have rested on several grounds. Some criticisms apply specifically to limits on total spending, and some apply to any proposal to amend the current budget process in a way that seeks to force future action.

For example, some have argued that past budgetary limits enforced by automatic reductions led Congress to accept "second- or even third-best solutions" to problems in an effort to stay within its short-term budget constraints.[12] It has also been suggested that such processes have heightened conflict within Congress, as well as between Congress and the President.[13] Lastly, it can be argued that relying on automatic reductions to fulfill budgetary levels cedes Congress's control over levels and details of spending.

Spending limit proposals may be subject to the criticism that they may not automatically translate into reductions in the debt or the deficit. While the controls on spending that are associated with spending limits may be viewed as having an inherent tendency also to reduce the deficit or debt, it could be argued that they may not necessarily have this effect, to the extent that they fail to take into account revenue levels as well. For example, even if Congress adheres to specific spending limits that would be projected to bring the budget into balance, if it simultaneously reduces revenue, or if revenue falls due to economic conditions, a deficit may still exist, or even increase. Deficits may be particularly sensitive to this latter concern because the economic conditions that would tend to produce an upsurge in spending for programs such as Medicaid and the Supplemental Nutrition Program (SNAP) would also tend to reduce revenues. Further, capping

[11] U.S. General Accounting Office, *Budget Policy, Issues in Capping Mandatory Spending*, 94-155, July 1994.

[12] Robert D. Reischauer, "Taxes and Spending Under Gramm-Rudman-Hollings," *National Tax Journal*, vol. 43, no. 3 (September 1990), p. 223.

[13] Ibid.

spending would not reduce the debt currently held by the public unless spending levels were lower than revenue levels, resulting in a surplus that could be used to pay down such debt.[14]

In addition, some argue that to address a deficit or debt problem, both spending decreases and revenue increases must occur, and this means including revenue increases as part of an enforcement mechanism.[15] This argument may reflect an implicit presumption that, whether addressed in policy or in an enforcement mechanism, the spending cuts that would be required to bring the deficit down to sustainable levels would be too severe to be palatable and therefore, a combination of changes to spending and revenue would be required.

It has been argued that placing a cap on total spending with no parallel limits on revenue decreases would encourage "the conversion of spending programs into tax expenditures, which would not count against the cap," favoring subsidies provided through the tax code.[16] Some further assert that this approach would encourage tax expenditures that would tend to favor high-income households and corporations over types of government assistance that benefit primarily low- and middle-income populations because the former have greater tax liability on average than the latter.[17] As a result, in addition, such a shift in emphasis of policy mechanisms may result in the deficit either staying the same, or potentially growing.

Another criticism of spending limit proposals is that they seek to achieve a budgetary goal through procedure, rather than directly through proposing policy that would achieve the stated spending goal. When discussing such budget process reforms, a sentiment exists among some that is reflected in the often repeated saying "the process is not the problem; the problem is the problem."[18] According to this argument, process reform is being suggested as a substitute for, or distraction from, the tough policy decisions that are needed to actually address the budgetary problem.

From this perspective, the major obstacle to reducing spending could be viewed as a lack of consensus and political will, and the creation of statutory spending targets could be considered as not, in itself, addressing either of these elements. It has been argued that budget process reforms, such as spending limits, are best implemented when accompanied by a policy package that achieves a corresponding purpose. For example, the Balanced Budget and Emergency Deficit

[14] Debt held by the public is different than total or gross debt because it doesn't include intergovernmental debt, which is debt issued for internal government transactions to trust funds and other federal accounts and not traded in capital markets. For more information, see CRS Report R41815, *Overview of the Federal Debt*, by D. Andrew Austin.

[15] For example, a White House press release stated, "Shared Sacrifice from All, Including the Most Fortunate Americans: The President believes strongly that, as we make difficult choices to live within our means, we cannot afford to make our deficit problem worse by extending the Bush tax cuts for the wealthiest Americans." "The President's framework would require ... A Debt Failsafe that will trigger across-the-board spending reductions (both in direct spending and spending through the tax code)" The White House, Office of the Press Secretary, "Fact Sheet: The President's Framework for Shared Prosperity and Shared Fiscal Responsibility," press release, April 13, 2011, http://www.whitehouse.gov/the-press-office/2011/04/13/fact-sheet-presidents-framework-shared-prosperity-and-shared-fiscal-resp.

[16] Oral and written testimony of Dr. Paul Van de Water, Senior Fellow, Center on Budget and Policy Priorities, before the Senate Finance Committee at the hearing on Budget Enforcement Mechanisms, May 4, 2011, accessible at http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1.

[17] Ibid.

[18] This quote is widely used when discussing various types of budget process reform, and it is typically attributed to former CBO Director Rudolph G. Penner. The first found reference is Elizabeth Wehr, "Congress Likely to Resist Budget Process Change," *Congressional Quarterly Weekly Report*, December 27, 1986, p. 3142.

Control Act of 1985, referred to as the Gramm-Rudman-Hollings Act, created statutory annual deficit targets. Many question the act's success and some attribute a lack of success to the fact that no spending reductions or revenue increases were included because agreement on such changes could not be reached.[19] Conversely, the Budget Enforcement Act of 1990, which created statutory discretionary spending limits and PAYGO, is considered by many to have been successful, in part because these mechanisms were included as part of a reconciliation bill that itself significantly reduced the deficit. The procedures were used to enforce the savings achieved through changes in spending and revenue policy, instead of acting as a substitute for them. As a former CBO director concluded, budget process mechanisms are better at enforcing agreements than forcing agreements.[20]

Features and Options

Amount and Coverage

Proposals for a total cap on spending specify an actual spending limit or amount, which may appear in different forms, some seeking to cap or freeze spending at a specific rate, others trying to reduce spending annually. Although such limits could be represented as a static dollar amount, most proposals include spending limits that are linked to some other economic or demographic factors such as GDP, inflation, or population growth. For example, S. 245 stipulates that outlays for FY2014 through FY2022, be 25% of GDP minus 0.1711% in each successive fiscal year (i.e., 24.8289 % in FY2014 and 23.4601 % in FY2022). H.R. 2560 specifies that outlays may not exceed 21.7% of GDP in FY2013, with decreasing GDP limits for each year until FY2021. H.R. 4529 (111th Congress) also would have limited spending to a percentage of GDP, though the percentage fluctuates between 21.6% and 24.1% from FY2011 to FY2037 before steadily decreasing through FY2083 to 13.0%.

Recommendations have been made by some outside Congress to cap total spending at a rate that allows increases at the inflation rate plus population growth[21] or to establish a limit that allows spending to grow at the inflation rate minus 1%.[22] H.R. 5323 (111th Congress) would have prohibited spending from increasing at a rate greater than the percentage change in the Consumer Price Index plus the percentage change in annual population growth. Although these measures may appear to allow spending to increase, because spending rises in dollar terms, they likely represent a decrease compared with current policy, as measured by the CBO baseline.

Spending limits vary not just by type, but also by severity and pace of reduction. The spending limits in the proposals described above range from 24.8289% to 13% of GDP. To put that into perspective, total spending as a percentage of GDP was 23.8% in FY2010 and 25.0% in FY2009.

[19] Associated Press, "Automatically triggered budget cuts have spotty record over past three decades," *Washington Post*, May 7, 2011. For more information regarding the Gramm-Rudman-Hollings Act, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

[20] Robert D. Reischauer, director, Congressional Budget Office, statement before the Subcommittee on Legislation and National Security, Committee on Government Operations, U.S. House of Representatives, May 13, 1993.

[21] Brian Riedl, *10 Elements of Comprehensive Budget Process Reform*, The Heritage Foundation, June 15, 2006, http://www.heritage.org/research/reports/2006/06/10-elements-of-comprehensive-budget-process-reform?cfid=240494&cftoken=25e2923ef312de5c-212160d1-c63c-b796-be5768b8eceba165.

[22] Edward P. Lazear, "How to Grow Out of the Deficit," *Wall Street Journal*, September 27, 2010.

As a share of GDP, these were the highest levels of spending since 1946. From 1946 to 2008, spending averaged 19.6% of GDP. The proposed level of 13% in FY2083 provided in H.R. 4529 (111th Congress) would have been the lowest level of federal spending since 1941.

Projected Versus Actual Levels

Proposals for spending limits also differ in whether they define their standards for compliance in terms of projected or actual levels of annual spending or any other quantities referenced in the proposals, such as GDP or population growth. The choice of standards is especially important in relation to a cap that covers total spending because it will encompass direct spending which is more challenging to project than discretionary spending. If a proposal relies on spending projections (rather than actual levels), then at some point, typically near the beginning of the calendar year, a projection of total spending must be made. In this situation, Congress might then pass legislation making adjustments sufficient to eliminate the difference between projected spending and the statutory limit. In this situation, the success of Congress in adhering to the spending limits will be determined solely on the basis of whether Congress enacts spending reductions that are projected to be adequate to meet the spending limits. As a result, however, if the projections later prove inaccurate Congress will not have technically adhered to the spending limits, but appropriate amounts of actual spending reduction may not have taken place.

On the other hand, if a proposal plans to rely on actual levels of spending to enforce the limits, and Congress makes legislative adjustments to spending law based on projections of spending levels made at the beginning of the year, but actual spending later turns out to be higher than was projected, Congress will not have met the levels through no fault of its own and the enforcement mechanism may be implemented. This situation also presents a challenge to implementing the enforcement mechanism, because the spending will already have taken place. In this case, therefore, success in meeting the targets relies not just on congressional action but also on the accuracy of the projections.

Some have suggested incorporating a mechanism, referred to as a "look back" provision, that might rely on both projected and actual levels when measuring compliance with the spending limit. In such a scenario, success in meeting the spending limit would be based initially on the ability to meet projected spending levels. If subsequently, however, the actual level of spending for that period is shown to be significantly higher than was projected, it may require some type of automatic reduction to occur.[23]

Exemptions and Waivers from the Total Spending Limits

Exemptions and waivers appear in many proposals to create total spending caps as a way to grant Congress flexibility in making budgetary decisions. Exemptions provide certain programs with protection, and waivers allow Congress flexibility for dealing with future circumstances. As

[23] "The law should include a look-back sequester which corrects for deficit overages when the actual deficit spending totals for the year are calculated. This would allow for mid-course corrections to keep the nation on a deficit reduction glide-path before the deficit targets become unachievable." Oral and written testimony of the Honorable Phil Gramm (former Member of the House of Representatives 1979-1985 and U.S. Senator 1985-2002), before the Senate Finance Committee at the hearing on Budget Enforcement Mechanisms, May 4, 2011, accessible at http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1.

described in the following section, proposals may specify that certain programs are exempt from the automatic enforcement mechanism in the event that it is triggered.

Some proposals exempt certain spending from counting against the prescribed limit. For instance, some proposals exempt from the overall cap funds being used to pay interest or principal on the national debt. Others, such as S. 245, and H.R. 5323 (111th Congress), would direct that spending identified as "emergency" not count against the limits. Especially in the latter case, exemptions create the potential for significant spending to occur that is not subject to the limits, particularly because Congress decides what constitutes emergency spending.

In addition to exemptions, proposals may provide for waivers that have the effect of setting aside the spending limits and any related enforcement mechanism under specified circumstances. In the case of points of order on the House or Senate floor, most proposals set forth a mechanism for either chamber to waive those points of order if it wishes to do so, sometimes requiring a super-majority of the chamber. For example, S. 245 states that points of order can be waived in the Senate by an affirmative vote of two-thirds of the Senators, present and voting, and in the House by adoption of a special rule[24] requiring an affirmative vote of two-thirds of the Members, present and voting.

Proposals often provide for a method of waiving or suspending the overall spending limits in specific situations. For instance, proposals have permitted waivers if the United States is engaged in war or if the United States is experiencing difficult economic conditions, such as low economic growth. Past use of sequestration allowed such flexibility. For instance, suspension in the event of a recession was provided in past statutory budget controls, such as the Balanced Budget and Emergency Deficit Control Act of 1985, often referred to as the Gramm-Rudman-Hollings Act.[25] This act created statutory deficit targets that were enforced by an automatic reduction mechanism, referred to as sequestration. Under the Gramm-Rudman-Hollings Act, if a recession occurred, Congress could consider a joint resolution, under expedited procedures, that once enacted would suspend the deficit reduction provisions for the current fiscal year or for all fiscal years.[26]

Proposals could also explicitly allow for the Congress to suspend the limits and any resulting automatic reduction at its discretion. For example, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (P.L. 100-119) provided for the consideration of a joint resolution suspending sequestration, to be considered under expedited procedures if introduced by the House or Senate majority leader within 10 days of receipt of OMB's sequestration report. Similarly, H.R. 4529 (111th Congress) included a section providing for the consideration of a joint resolution directing the President to modify the sequestration order, to be considered under expedited procedures if introduced by either the House or Senate majority leader after the sequester order but before the end of the relevant session of Congress.

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[24] A special rule is a simple resolution reported from the House Rules Committee, typically intended to regulate floor consideration of a specific legislative measure.

[25] P.L. 99-177. For further information see, CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

[26] If real economic growth was projected to be negative in two consecutive quarters, or if the Commerce Department reported that actual real growth was below 1% in two consecutive quarters, the deficit level provisions could be suspended.

Enforcement

As mentioned above, total spending limits, as discussed in this report, include only those that establish an automatic mechanism to enforce the spending limit in the event that it is not achieved through legislation. Automatic enforcement would occur after the fact, if congressional action failed to achieve the target levels of spending, typically through a process of automatic reduction. Some proposals may also establish means by which spending limits can be enforced in advance of the enactment of spending legislation, typically through points of order raised during consideration of such legislation in each house. This section discusses both types of enforcement mechanism.

Points of Order

The chief form of enforcement mechanism operating in advance of the enactment of spending legislation is points of order that can be raised on the House and Senate floor against legislation that would violate the statutory spending limits. For example, a proposal may include language providing that it is not in order to consider in the House or Senate any measure that would cause applicable spending limits to be exceeded. Because such rules are not self enforcing, such an enforcement mechanism relies on Members affirmatively raising points of order on the House or Senate floor against the legislation. It should be noted that, unless specified in the proposal, in most cases, points of order can be waived. When the House chooses to waive points of order, it typically does so through a special rule reported from the House Rules Committee and adopted by the House, although it may also do so through the suspension of the rules procedure or by unanimous consent. Many rules related to the budget process allow three-fifths of all Senators (60 if there is no more than one vacancy) to agree to a motion to waive the point of order. Similarly, spending limit proposals may seek to make it more difficult to waive points of order by requiring a super majority, such as two-thirds or three-fifths of the chamber to agree.

Both the reliance of points of order on elective action by Members and their potential for being waived has often led to their being criticized as a weak form of enforcement mechanism. Their most significant limitation in this context, however, is that they can only apply to new spending legislation when it is being considered by Congress. Points of order can never limit spending resulting from previously enacted legislation, which includes most direct spending and makes up about 55% of total spending.

With the exception of Statutory PAYGO,[27] all mechanisms currently used in the congressional budget process to enforce spending levels rely solely on points of order. For example, spending levels in the budget resolution are generally enforced through points of order, again meaning that they can only affect new legislation.[28] In part, the automatic enforcement mechanisms that are a

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[27] Within Statutory PAYGO, budgetary effects of new enacted direct spending and revenue provisions are recorded on two separate scorecards. At the end of a congressional session, the scorecards are evaluated to determine if a debit has been recorded for the current budget year; that is, if new legislation has increased or created a deficit. If no such debit is found, no action occurs. If a debit is found, however, the President must issue a sequestration order which automatically implements across-the-board cuts to non-exempt direct spending programs to compensate for the amount of the debit. For more information, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

[28] Although not a traditional enforcement mechanism, the budget reconciliation process can also be used to enforce the levels included in the budget resolution, particularly for spending resulting from already enacted legislation. It is an optional, congressional process used to assist Congress in achieving the levels set forth in the budget resolution by (continued...)

component of proposals to create total spending limits represent a response to the limitations of point of order as an enforcement mechanism.

Automatic Reduction Mechanism (Sequestration)

The purpose of including automatic enforcement mechanisms in proposals to create total spending limits is to enforce spending limits on spending that results from already enacted legislation. These mechanisms are designed to make automatic cuts to spending programs when total spending limits are breached.

Although this would need to be specified in statute, in a general sense, the automatic reductions would be achieved by the President issuing an order that would automatically implement programmatic spending cuts to compensate for the level by which the spending caps have been breached. These cuts are often referred to as across-the-board cuts, although as explained below, they often include exemptions that protect specified programs.

Such automatic spending reductions have existed as an enforcement mechanism in several forms in connection with budget and budget process reform, each time referred to as sequestration. Sequestration is currently used to enforce Statutory PAYGO. Before that, it was included in the Gramm-Rudman-Hollings Act and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 to enforce annually declining deficit targets. It was also used in the Budget Enforcement Act of 1990[29] and the Budget Enforcement Act of 1997[30] to enforce discretionary spending limits and PAYGO.

Sequestration is included as an enforcement mechanism in many proposals, such as S. 245 and H.R. 2560 (112th Congress) and H.R. 4529 and H.R. 5323 (111th Congress). For example, S. 245 states that not later than 45 calendar days after the beginning of a fiscal year, the OMB shall conduct a sequestration to eliminate any excess outlay amount.

Exemptions and Limitations from the Automatic Reduction Mechanism

Automatic reduction mechanisms can be tailored to shield specified programs, meaning certain programs might be completely exempt from across the board cuts, or they might be protected by a limit on the percentage of cut to which a program can be subject. For example, under Statutory PAYGO, some direct spending programs and activities are exempt from sequestration, such as Social Security and Tier I Railroad Retirement benefits, federal employee retirement and disability programs, Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP), Children's Health Insurance Program (CHIP), Temporary Assistance for Needy Families (TANF), veterans' programs, net interest, refundable income tax credits, Medicaid, and unemployment compensation. In 2010, these exemptions amounted to roughly half of total federal spending.

(...continued)

instructing specific committees to report legislative changes within their jurisdiction that would achieve a certain budgetary goal. Once the specified committees develop legislation in response to the directive, the reported legislation is considered under expedited procedures in both the House and Senate CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

[29] P.L. 101-508.

[30] P.L. 105-33.

Some spending limit proposals create similar protections. For example, H.R. 4529 (111th Congress) would have exempted from reduction payments for net interest, Social Security benefits in certain circumstances, certain veterans benefits, obligated balances of budget authority carried over from prior years, any obligation of the federal government required to be paid under the U.S. Constitution, any program whose growth in the budget year is equal to or less than the consumer price index, and intergovernmental transfers.

Similarly, sequestration can be tailored to provide a more limited shield for non-exempt programs. For example, under Gramm-Rudman-Hollings, sequestration could reduce spending for certain programs only by 1% in 1986 and 2% in subsequent years. These programs were Medicare, veterans' medical care, community health centers, migrant health centers, and Indian health facilities and services. For other programs, such as guaranteed student loans and child support enforcement, specific rules governed the calculation of sequestration reductions.

Exempting certain programs means that non-exempt programs would need to be cut by larger amounts to achieve the desired reduction in overall spending. Senate Finance Committee Chairman Senator Max Baucus asserted, in a statement on automatic enforcement mechanisms, "If Medicare, Medicaid and Social Security were exempted from an across-the-board-cut, the cuts to other programs would be far too large to bear."[31]

Level of Reduction Made by the Automatic Reduction Mechanism

Many proposals direct that the amount by which spending is reduced through the automatic reduction mechanism must be the amount by which the spending limit is breached. Proposals, however, could include limits to the amount that could be cut by the reduction mechanism.

For example, H.R. 4529 (111th Congress) stated that if spending limits are not met, a sequestration will occur making cuts to all non-exempt spending programs. The proposal, however, included a provision stating that "No program shall be subject to a spending reduction of more than one percent of its budgetary resources."

Similarly, S. 245 provides that if spending limits are not met, an across the board cut would apply to all programs within each of three specified categories in proportion to the growth in outlays in such category over the previous year. Under such an arrangement, spending can be cut only to an amount tied to the actual growth in the category to which it belongs. As a result, the maximum reduction that could be achieved through a sequester would reduce overall spending to the level of the previous year.

Application to Different Categories of Spending

Some proposals may allow for cuts under sequestration to apply differently to different categories of spending. For example, Gramm-Rudman-Hollings included general deficit targets that were enforced by sequestration with spending reductions equally divided between defense and non-defense programs, but with most direct spending programs either exempt from cuts or protected from receiving a reduction of more than 1% or 2%. In some cases, however, Congress acted to

[31] Oral and written testimony before the Senate Finance Committee at the hearing on Budget Enforcement Mechanisms, May 4, 2011, accessible at http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1.

reduce discretionary spending, but deficit targets were still not achieved, because of the impact of revenues and direct spending. As a result, automatic reductions that would further cut discretionary spending remained a possibility. Considerations of these circumstances led to the Budget Enforcement Act of 1990 (BEA), which created a "firewall" between discretionary spending and direct spending. Caps were set for discretionary spending and were enforced by sequestration that would make cuts solely to non-exempt discretionary spending programs. In addition, PAYGO was established to require that the net effect of new direct spending and revenue legislation did not increase the deficit (or reduce a surplus). PAYGO was enforced by a sequestration process that would make cuts solely to non-exempt direct spending programs.

S. 245 proposes to divide spending into three categories for the purpose of sequestration: direct spending, discretionary security spending, and discretionary non-security spending. S. 245 directs that each category receive a reduction "in proportion to the growth in outlays in such category from the previous fiscal year." Programs within each category would receive a uniform reduction commensurate with that category's overall growth.

The prospect that programs may remain vulnerable to automatic reductions in addition to those cuts that have already been made through legislative action might remove any incentive for Congress to enact reductions in spending for those programs in the first place. One proposal to address this potential difficulty could be to provide protection against sequestration for programs that have already been reduced through legislative action in the same year, either by exempting them from automatic cuts or limiting the amount of cuts.

Alternative Procedures

Proposals may include procedures for a congressional response to an automatic reduction order. Specifically, they may include expedited parliamentary procedures that would allow Congress to consider and pass legislation achieving the spending target in order to avoid an imminent automatic reduction. Expedited procedures, also referred to as "fast-track" procedures, are often included to ensure that specific legislation can be considered and voted on in a timely way and to protect it from procedural obstacles faced by most legislation.[32]

Under the Gramm-Rudman-Hollings Act, the President's initial sequestration order was due September 1, but would not take effect until the President's final sequestration order on October 15. This left Congress time to pass deficit reduction legislation of their choice to avoid sequestration. The act also provided expedited procedures for Senate consideration of such legislation. Specifically, it stated that such a measure "shall be considered in the Senate to be reconciliation bills or resolutions for the purposes of the Congressional Budget Act of 1974."[33]

S. 245 includes a section titled "Congressional Action," which provides that if an August 20 report from OMB projects a sequestration, the House and Senate Budget Committees "may report a resolution directing their committees to change the existing law to achieve the goals outlined in the August 20 report." It does not, however, include expedited procedures for the consideration of such spending reduction legislation.

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[32] For more information on expedited procedures, see CRS Report RS20234, *Expedited or "Fast-Track" Legislative Procedures*, by Christopher M. Davis.

[33] Section 254(c).

H.R. 4529 (111th Congress) included a section titled "Alternate Spending Reduction Legislation in the House of Representatives," providing that after the OMB director issues a final sequestration order, but before the end of the session, the House or Senate majority leader may introduce a joint resolution that either directs the President to modify the most recent order or provides an alternative to eliminate the spending excess. H.R. 4529 went on to describe the expedited procedures under which this joint resolution can be considered. Some of these expedited procedures include discharging a House committee that has been referred the joint resolution, but has not yet reported it; placing the measure directly on the calendar in the Senate, as opposed to referring it to committee; limiting debate in the Senate to 10 hours; requiring amendments in the Senate to be germane; and limiting debate on each amendment to 30 minutes.

Observations from a Historical Perspective

The purpose of overall limits on spending is to restrain, and in most cases, to reduce total spending. The inclusion in these proposals of both a spending limit and an automatic enforcement mechanism can be perceived as attempting to ensure that reductions in spending will actually occur. Examination of historical experience with mechanisms of this kind, however, may raise questions about the validity of the assumptions underlying this expectation. A closer examination of this experience may assist in determining how effective these mechanisms are likely to be. An accurate assessment of the implications of current proposals, however, requires attention to the specific means by which the various plans propose to bring about spending reductions.

One assumption that may lie behind some proposals for spending limits is that target levels of spending will ultimately be made, not through the application of the automatic enforcement mechanism, but through legislative action. This result would presumably require Congress and the President to negotiate an agreement on the spending reductions that are to be implemented through legislation. Proponents might expect that if a limit on total spending is in place, an agreement to reduce spending sufficiently to meet the statutory targets might result if any of three general conditions are met.

First, Congress and the President may come to an agreement based solely on a shared desire to reduce spending. If such a desire is present, however, then Congress and the President may be able to achieve the result without having to impose a prior statutory limit on themselves for the purpose.

Second, Congress and the President may come to an agreement because they wish, perhaps for political reasons, to adhere to the budgetary policy articulated in the spending limits. Although spending reductions would, under these circumstances, be related to the statutory spending limit, it is open to debate whether the existence of the limits would ensure such an agreement would be reached. Under present conditions, even in the absence of statutory limits, budgetary policies are already set out in the congressional budget resolution and the President's budget request, yet these are not always adhered to, often because of shifting priorities or unforeseen circumstances, such as a natural disaster or higher than projected direct spending levels.

Lastly, Congress and the President may reach agreement because the impact of the enforcement mechanism is so unattractive that it acts as a threat to force a negotiated compromise. Such a result seemed to be the intent behind the enforcement mechanism included in the Gramm-Rudman-Hollings Act, which threatened across-the-board spending cuts through sequestration if deficit targets were not met. Senator Phil Gramm, one of the chief sponsors of the act, stated that,

"It was never the objective of Gramm-Rudman to trigger the sequester; the objective of Gramm-Rudman was to have the threat of the sequester force compromise and action."[34] In practice, however, it does not appear that in all cases this threat led to the anticipated result. Because legislation had not yet been enacted to reduce the deficit to required levels, sequestration was used for FY1986 and FY1990. This led many to believe that the sequester was not enough of a threat to force action. As a former staff member of the Senate Budget Committee stated at the time, "They thought they were creating something too awful to use. And it wound up being even easier."[35] Another former staffer stated, "I think the notion of sequester has lost its frightening characteristics. Sequestration was originally put in to push the nonsequester outcome. And if we've now gone through a few budget years where it's ho-hum, then there is no deterrence."[36]

On the other hand, situations also occurred in which, before the point arrived at which a sequestration would occur, the President and Congress successfully reached an agreement that cold be attributed to the desire to avoid sequestration. For example, in September of 1990, President George H.W. Bush and Congress reached a significant deficit reduction agreement that was subsequently implemented through annual appropriations bills and the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). It could be argued that the willingness of President Bush to accept some revenue increases as part of this agreement, after having pledged in his campaign to reject tax increases, represented a response to the alternative of a sequester that would have reduced spending for non-exempt defense programs by 34.7% and non-exempt non-defense programs by 31.6%.

Nonetheless, these observations suggest that in some cases, Congress and the President may find it easier to allow an automatic budget enforcement mechanism to take effect rather than to negotiate an agreement. For one thing, Congress may find legislative inaction easier than action. In some cases, as well, allowing an automatic reduction may be politically easier than negotiating an agreement. In these respects, much may depend on how an automatic reduction is designed to work and which programs, if any, would be exempt. If proponents hope to promote a negotiated solution, they might wish to design the enforcement mechanism to be as unattractive as possible, so as to constitute a more severe threat. Yet it might be difficult to gather support for a proposal with a highly unattractive enforcement mechanism, because lawmakers, appreciating the difficulty of reaching a negotiated agreement, may fear that the enforcement mechanism will be used despite their best intention to reach such an agreement.

It can be argued that even if the threat of an automatic reduction does not force negotiation that reduces current spending, it may discourage spending on new programs. Some have said that the chief impact of Gramm-Rudman-Hollings was that it "acted as a brake on new initiatives," blocking, delaying, or reducing spending for new programs.[37]

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[34] Oral and written testimony of the Honorable Phil Gramm (former Member of the House of Representatives from 1979-1985 and U.S. Senator from 1985-2002), before the Senate Finance Committee at the hearing on Budget Enforcement Mechanisms, May 4, 2011, accessible at http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1.

[35] Quote by Nell Payne, former Republican chief counsel to the Senate Budget Committee, as included in Lawrence J. Haas, "Losing Its Punch," *National Journal*, December 30, 1989, p. 3106.

[36] Quote by Steven I. Hoffman, a former House Republican leadership aide. Ibid.

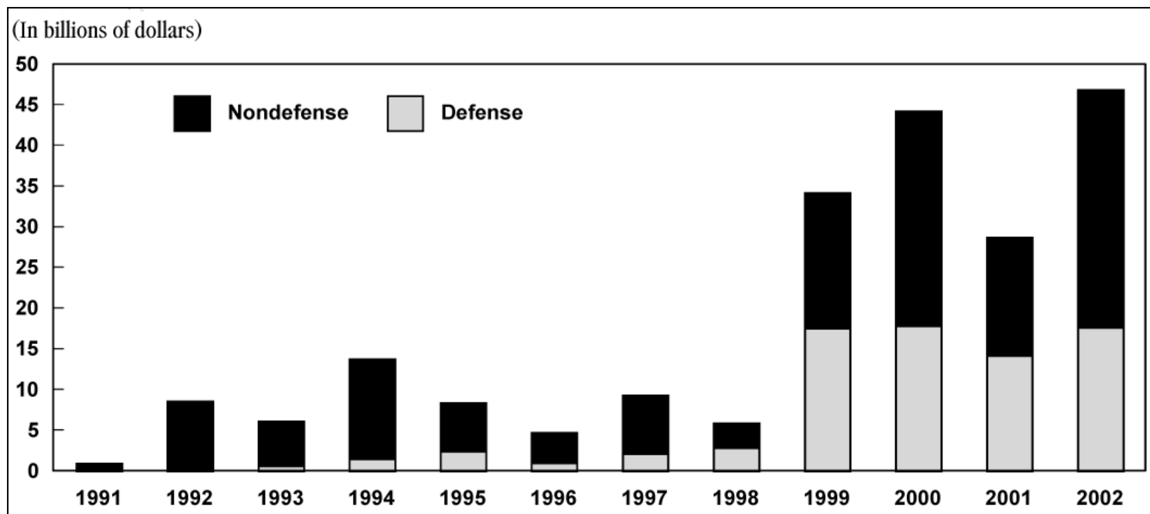
[37] Robert D. Reischauer, "Taxes and Spending Under Gramm-Rudman-Hollings," *National Tax Journal*, vol. 43, no. 3 (September 1990), p. 228.

Technical Compliance With, Setting Aside, and Revising Limits

Another assumption that may be made by proponents of statutory spending limits may be that compliance with statutory spending limits, either through legislative action or an automatic enforcement mechanism, will in fact result in spending reductions. Experience, however, shows that at least under some conditions, it may be possible to comply with the statutory requirements while still not achieving the intended reductions in actual spending.

If the statutory scheme provides exemptions from its requirements for "emergency spending," or for other specified programs, significant spending can occur that is not subject to the limits. For example, an exemption for spending labeled "emergency" was included in the Budget Enforcement Act of 1990. As displayed in **Figure 1**, levels of emergency spending increased in many years during the life of the act, growing to $47 billion in FY2002 ($18 billion in emergency defense spending and $29 billion in emergency non-defense spending).[38]

Figure 1. Emergency Budget Authority Under the Budget Enforcement Act of 1990



Source: Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2004-2013*, January 2003.

Notes: Excludes spending in 1991 and 1992 for Desert Storm and Desert Shield because that spending was offset by foreign contributions.

Furthermore, it may be possible to achieve compliance with statutory requirements through the use of various accounting devices that can discount the actual effects of spending. For example, the use of advance appropriations or directives to delay the incurring of obligations and the making of payments can permit spending to occur in ways that do not count against the established limits for a given fiscal year.[39]

If statutory spending limits are couched in terms of compliance with projections, it may become possible for enacted spending legislation to comply with the statutory limits even while actual

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[38] Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2004-2013*, January 2003.

[39] Advance appropriations means that budget authority will become available one or more fiscal years after the fiscal year covered by the act. For more information, see CRS Report RS20441, *Advance Appropriations, Forward Funding, and Advance Funding*, by Sandy Streeter.

spending turns out to exceed the target levels. This situation can arise because, as noted above, projections are highly sensitive to small changes in underlying assumptions and economic conditions. In addition, it may be possible, through the use of sufficiently optimistic assumptions, to adjust the applicable projected levels in ways that facilitate compliance with budgetary limits.

Under Gramm-Rudman-Hollings, enacted spending legislation remained in technical compliance with the act, even though the deficit did not actually decline to the levels specified in the act. Former CBO Director, Robert D. Reischauer (1989-1995) stated that Gramm-Rudman-Hollings "encouraged reliance on overly optimistic economic and technical assumptions and transparent budget gimmickry."[40] Similarly, in a report to Congress and the President on compliance with the act, the comptroller general stated

> We report again, as we did last year, that compliance with the act does not necessarily result in meaningful deficit reduction. Over the last 4 years of technical compliance with the act, budgetary gimmicks have proliferated, adding billions of dollars in budget costs over the long run. There is also an aura of unreality about the budget projections made under provisions of the act. Over the years, OMB'S projections have sometimes been too optimistic. Additionally, the act limits OMB'S flexibility to correct its inaccurate estimates and technical mistakes. Such restrictions mean that the deficit estimate in this year's OMB reports cannot be taken as a meaningful projection of the deficit that will actually occur in fiscal year 1990.[41]

Advocacy of spending limits may rest on an assumption that as long as a future Congress does not repeal the limits enacted, it will adhere to them. History suggests, however, that may not always be the case. Under both Gramm-Rudman-Hollings and the Budget Enforcement Act, Congress intervened several times to alter the existing process. In particular, when deficit targets were not being met under Gramm-Rudman-Hollings, Congress passed the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (P.L. 100-119), which significantly revised the deficit targets upward and extended the period required to achieve a balanced budget. For example, the deficit target for FY1990, which had been $36 billion, was increased to $100 billion under the 1987 act.

Similarly, in several years in which deficit limits were expected to be breached, Congress passed legislation barring a sequester. For example, the Military Construction Appropriations Act for FY2001 (P.L. 106-246) was projected to breach the "other" category of the discretionary spending limits. To avoid sequestration, Congress included in the bill a provision barring a sequester.

In some years, moreover, Congress exempted new spending and revenue legislation from being counted against applicable limits. The Consolidated Appropriations Act for FY2000 (P.L. 106-113) included direct spending and revenue provisions that were projected to add $1.552 billion to the deficit for FY2000 and $15.193 billion for FY2000-FY2004. These budgetary effects, however, were exempted from being scored for purposes of PAYGO by a provision in the Appropriations Act.

[40] Robert D. Reischauer, "Taxes and Spending Under Gramm-Rudman-Hollings," *National Tax Journal*, vol. 43, no. 3 (September 1990), p. 223.

[41] U.S. General Accounting Office, *Deficit Reductions for Fiscal Year 1990, Compliance with the Balanced Budget and Emergency Deficit Control Act of 1985*, GAO-AFMD-90-40, November 1989, p. 1.

Similarly, the Consolidated Appropriations Act for FY2001 (P.L. 106-554) included significant direct spending and revenue provisions by cross-reference. According to OMB's final sequestration report, this measure, together with other measures, showed a net deficit increase of $10.52 billion for FY2001. A sequester was avoided, however, by a provision in the Consolidated Appropriations Act for FY2001 instructing the OMB director to reset the PAYGO balance for FY2001 to zero. This happened once again in the Defense Appropriations Act for FY2002 (P.L. 107-117), which instructed the OMB director to reset the balances of the PAYGO scorecard for FY2001 and FY2002 to zero. This removed $130.27 billion from counting under the budgetary enforcement mechanism, thereby preventing a PAYGO sequester.

It can be argued, nonetheless, that despite the potential for complications and for the use of budgetary devices that could be criticized as "gimmickry," overall spending limits have the capacity to do much to reduce spending. For example, setting a national budgetary policy can focus considerable political and public attention on reducing spending. Further, regardless of the characteristics of a particular automatic reduction mechanism, if allowed to operate as prescribed, it *will* reduce spending, at least compared with current projected levels. As remarked by the former CBO director when discussing the success of a similar enforcement mechanism, Gramm-Rudman-Hollings, it "may not have brought the deficit cows back into the barn, but it has kept them from stampeding over the cliff."[42]

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[42] Reischauer, "Taxes and Spending Under Gramm-Rudman-Hollings," p. 232.