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The Mid-Session Review of the President's Budget: Timing Issues

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The Mid-Session Review of the President's Budget: Timing Issues

Summary

The Budget and Accounting Act of 1921 established for the first time the requirement that the President annually submit a budget to Congress. Under current law (31 U.S.C. 1105(a)), the President is required to submit his annual budget on or after the first Monday in January, but no later than the first Monday in February.

For nearly half a century after the 1921 act took effect, Presidents submitted their annual budgets to Congress in January or February but were not required to update the budget submissions later in the session. As the federal budget became larger, more complex, and more dynamic, Congress felt a greater need for more extensive and updated budgetary information from the President.

Section 221(b) of the Legislative Reorganization Act of 1970 requires the President to submit to Congress an update of his budget in the middle of the legislative session. The requirement, which was first effective in 1972, is codified at 31 U.S.C. 1106. The update commonly is referred to as the *mid-session review*, but sometimes is referred to as the *supplemental summary of the budget*. It often is printed as a House document.

During the more than 30 years that the President has been required to submit a mid-session review of his budget, controversy has surfaced occasionally regarding the timing of its submission to Congress. From time to time, Members of Congress have asserted that the President has submitted the mid-session review in a tardy manner in order to gain a political or legislative advantage over Congress. In one instance, some Members attributed an accelerated submission of the mid-session review to the same motivation.

This report provides information on the timing of submission of the mid-session review for FY1980-FY2005, a 26-year period that covers all or part of the administrations of five Presidents, applying to the last two years of the Carter Administration and the full four-year or eight-year terms of the Reagan, George H. W. Bush, Clinton, and George W. Bush Administrations. Each of the Presidents submitted at least one mid-session review on time and at least one late.

During the 26-year period, the mid-session review was submitted, on average, about two weeks (13.7 days) late. In 10 of the 26 years, the mid-session review was submitted on time. Seven of the 10 timely submissions were made on, or within one day of, the July 15 deadline. In two of the three remaining instances, the mid-session review was submitted in late June; for FY1999, it was submitted on May 26, 1998 — 50 days ahead of the deadline.

In 16 of the 26 years, the submission of the mid-session review was tardy, with delays ranging from one day to 52 days. When a tardy submission occurred, on average it involved a delay of about three weeks (22.2 days).

This report will be updated as developments warrant.

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The Mid-Session Review of the President's Budget: Timing Issues

Background

The Budget and Accounting Act of 1921 (P.L. 67-13) established for the first time the requirement that the President annually submit a budget to Congress. The President's budget, referred to officially as the *Budget of the United States Government*, consists of estimates of spending, revenues, borrowing, and debt; policy and legislative recommendations; detailed estimates of the financial operations of federal agencies and programs; and other information supporting the President's recommendations. Initially, the 1921 act required the President to include in his budget information for the upcoming fiscal year, as well as for the most recently completed and current fiscal years.

Under the 1921 act, the deadline for submission was set as "the first day of each regular session" of Congress. The deadline was changed in 1950, 1985, and 1990, but always required that the budget be submitted either in January or February. Under current law (31 U.S.C. 1105(a)), the President is required to submit his annual budget on or after the first Monday in January, but no later than the first Monday in February.

As soon as the President's budget is received, the House and Senate begin working on the annual appropriations bills, revenue measures, and other budgetary legislation. The aim of the two chambers is to complete legislative action on the budget by the beginning of the fiscal year later in the session, but sometimes such action is not completed until weeks or months after the fiscal year has begun.

Origin of the Mid-Session Review

For nearly half a century after the 1921 act took effect, Presidents submitted their annual budgets to Congress in January or February but were not required to update the budget submissions later in the session. As the federal budget became larger, more complex, and more dynamic, Congress felt a greater need for more extensive and updated budgetary information from the President. This view was expressed by the House Rules Committee in its report on the Legislative Reorganization Act of 1970 (P.L. 91-510):

Very often, as the appropriations process moves forward, conditions relating to the President's budget change. Frequently, Members are not fully informed about such changes and what effect they will have on the total Budget. No official Executive pronouncements are made subsequent to the Budget submission; no supplementary budgetary information is presented; no firm foundation except the January Budget is available in the Congress. This inexact,

imprecise, and haphazard system must be substantially improved if the Congress is to analyze effectively the President's program and, with any degree of accuracy, forecast the expenditure and revenue levels of the National Government.¹

The Legislative Reorganization Act of 1970 made several changes in the federal budget process in response to Congress's need for more budgetary information from the President, chiefly by requiring that his budget cover not just the upcoming fiscal year but the four ensuing fiscal years.

In addition, Section 221(b) of the act requires the President to submit to Congress an update of his budget in the middle of the legislative session. The requirement, which was first effective in 1972, is codified at 31 U.S.C. 1106 (see **Appendix A** for the current text of the statutory requirement). The update commonly is referred to as the *mid-session review*, but sometimes is referred to as the *supplemental summary of the budget*. It often is printed as a House document.

Subsequent Modifications

Congress and the President have made two changes since 1970 pertinent to the requirement for a mid-session review. First, in conjunction with a change in the start of the fiscal year from July 1 to October 1, made by the Congressional Budget Act of 1974 (P.L. 93-344), the deadline for submission of the mid-session review was changed from June 1 to July 15.²

The second change pertained to the budget enforcement procedures established on a temporary basis by the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177), commonly referred to as the Gramm-Rudman-Hollings Act. Under Section 241 of the act, the President was required in the preparation of his annual budget to adhere to statutory deficit targets that were enforced by sequestration. Section 242 of the act (99 Stat. 1063) extended the same constraint to the preparation of the mid-session review. The restriction expired at the end of FY1995, along with the deficit targets themselves.

Timing of Submission: FY1980-FY2005

During the more than 30 years that the President has been required to submit a mid-session review of his budget, controversy has surfaced occasionally regarding the timing of its submission to Congress. From time to time, Members of Congress have asserted that the President has submitted the mid-session review in a tardy

¹H.Rept. 91-1215, to accompany H.R. 17654 (in *U.S. Code Congressional and Administrative News*, 91st Cong., 2nd sess. (1970), vol. 3, p. 4427).

² Section 501 (88 Stat. 321) of the Congressional Budget Act of 1974 (P.L. 93-344) changed the start of the fiscal year to Oct. 1. Section 602 (88 Stat. 324) of the act changed the deadline for submission of the mid-session review to July 15. These two provisions, among others, were codified in Title 31 (Money and Finance) of the *United States Code* by P.L. 97-258, signed into law on Sept. 13, 1982. In 1990, new Sections 501 and 602 (dealing with credit reform and spending allocations) were added to the Congressional Budget Act.

manner in order to gain a political or legislative advantage over Congress. In one instance, some Members attributed an accelerated submission of the mid-session review to the same motivation.

Table 1 provides information on the timing of submission of the mid-session review for FY1980-FY2005. During the 26 years covered by this period, the mid-session review was submitted, on average, about two weeks (13.7 days) late.

**Table 1. Dates of Submission of the Mid-Session Review:
FY1980-FY2005**

Fiscal Year	Date of Submission	On Time?	No. of Days Late	President	House Document	
					Number	Date
1980	07-12-1979	Yes	0	Carter	96-163	07-16-1979
1981	07-21-1980	No	6	Carter	96-344	07-22-1980
1982	07-15-1981	Yes	0	Reagan	97-73	07-15-1981
1983	07-30-1982	No	15	Reagan	97-220	08-02-1982
1984	07-25-1983	No	10	Reagan	98-87	07-26-1983
1985	08-15-1984	No	31	Reagan	98-251	09-05-1984
1986	08-30-1985	No	46	Reagan	99-99	09-04-1985
1987	08-06-1986	No	22	Reagan	99-254	08-06-1986
1988	08-17-1987	No	33	Reagan	100-99	09-09-1987
1989	07-28-1988	No	13	Reagan	100-217	07-28-1988
1990	07-18-1989	No	3	Bush	101-86	07-21-1989
1991	07-16-1990 ^a	Yes ^a	0	Bush	101-217	07-18-1990
1992	07-15-1991	Yes	0	Bush	102-115	07-17-1991
1993	07-24-1992	No	9	Bush	102-365	07-24-1992
1994	09-01-1993 ^b	No ^b	48	Clinton	103-133	09-0-1993 ^b
1995	07-14-1994	Yes	0	Clinton	[none]	—
1996	07-28-1995 ^c	No ^c	13	Clinton	[none] ^c	—
1997	07-16-1996	No	1	Clinton	104-247	07-18-1996
1998	09-05-1997	No	52	Clinton	105-129	09-15-1997
1999	05-26-1998	Yes	0	Clinton	[none]	—
2000	06-28-1999	Yes	0	Clinton	[none]	—
2001	06-26-2000	Yes	0	Clinton	[none]	—

Fiscal Year	Date of Submission	On Time?	No. of Days Late	President	House Document	
					Number	Date
2002	08-22-2001	No	38	Bush	[none]	—
2003	07-15-2002	Yes	0	Bush	107-245	07-16-2002
2004	07-15-2003	Yes	0	Bush	[none]	—
2005	07-30-2004	No	15	Bush	—	—
Average			13.7			

- a. In 1990, the July 15 deadline fell on a Sunday; therefore, the report for this year is considered to have been submitted in a timely manner.
- b. “Preliminary” materials relating to the mid-session review were submitted on July 15, 1993.
- c. “Preliminary” materials relating to the mid-session review were submitted on July 14, 1995 and printed as H. Doc. 104-98 (July 17, 1995).

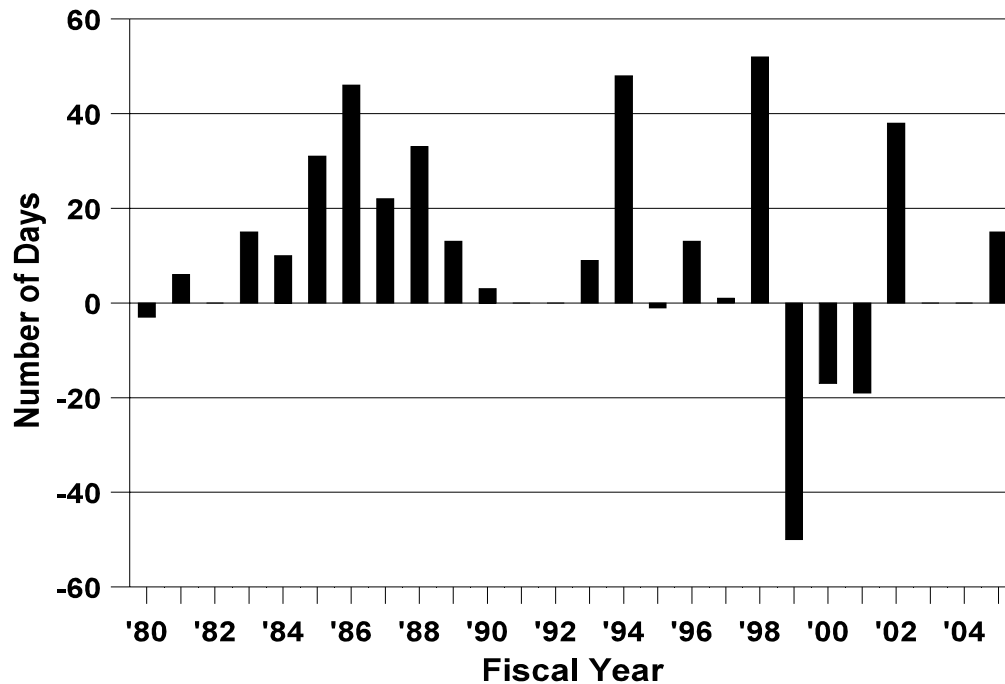
The 26-year period identified in **Table 1** covers all or part of the administrations of five Presidents, applying to the last two years of the Carter Administration and the full four-year or eight-year terms of the Reagan, George H. W. Bush, Clinton, and George W. Bush Administrations. Each of the Presidents submitted at least one mid-session review on time and at least one late.

In 10 of the 26 years, the mid-session review was submitted on time — for fiscal years 1980, 1982, 1991 (on Monday, July 16), 1992, 1995, 1999-2001, and 2003-2004. Seven of the 10 timely submissions were made on, or within one day of, the July 15 deadline. In two of the three remaining instances, the mid-session review was submitted in late June (June 28, 1999 and June 26, 2000); for FY1999, it was submitted on May 26, 1998 — 50 days ahead of the deadline.

In 16 of the 26 years, the submission of the mid-session review was tardy, with delays ranging from one day to 52 days. When a tardy submission occurred, on average it involved a delay of about three weeks (22.2 days).

Figure 1 shows the number of days that the mid-session review was submitted before or after the July 15 deadline for each year from FY1980-FY2005.

Figure 1. Mid-Session Review: Number of Days Submitted Before (-) or After (+) July 15 Deadline



Circumstances of Delayed Submission

The submission of the mid-session review was noticeably delayed (i.e., for more than 15 days) in four instances: during a four-year stretch of the Reagan Administration, covering FY1985-FY1988; for FY1994 and FY1998, under the Clinton Administration; and for FY2002, under the George W. Bush Administration. The circumstances surrounding the delayed submissions in these four instances are discussed in more detail below.

President Reagan: FY1985-FY1988. During the first three years of his administration, President Reagan submitted the mid-session review either on time or no more than 15 days late. During the next four years of his administration, however, growing and persistent deficits made his relationship with Congress on budgetary matters especially turbulent, marked by delay and gridlock in all phases of legislative action on the budget. The mid-session reviews for four consecutive years, FY1985-FY1988, were submitted between 22 and 46 days late.

On September 29, 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Title I of P.L. 100-119) was enacted, which in part amended the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177) to modify the sequestration process. A requirement was added that the President include in the mid-session review preliminary sequestration estimates as well as the economic and technical assumptions that would be used in the initial sequestration report for the fiscal year due in August. The joint explanatory statement accompanying the conference report on the 1987 act noted:

For FY 1989 and beyond, the President's July 15 mid-session budget report must provide an estimate of the deficit excess and net deficit reduction computed using the economic and technical assumptions that he will use in the initial sequestration report for that fiscal year. It is imperative that the Director of OMB actually deliver this mid-session report by July 15. When he issues the initial sequestration report, he is required to use those same economic and technical assumptions.³

The increased significance given to the mid-session review by virtue of this change in the sequestration process probably accounts in part for the improved record of submission beginning with FY1989. President Reagan's mid-session review for that year was only 13 days late. The improved record of submission continued for all four years of the George H. W. Bush Administration, covering FY1990-FY1993.

The requirement under the 1985 Balanced Budget Act was effective for three years (FY1989-FY1991), but was terminated under revisions made by the Budget Enforcement Act (BEA) of 1990.⁴ President George H.W. Bush used the mid-session review for FY1992 and FY1993, at his own initiative, as a vehicle for apprising Congress of the status of legislation under two new enforcement tools established by the BEA of 1990 — discretionary spending limits and a pay-as-you-go (PAYGO) requirement covering revenues and mandatory spending.

President Clinton: FY1994. On July 15, 1993, the Clinton Administration notified Congress that it would delay the submission of the mid-session review for FY1994 so that it would reflect the impact of the Omnibus Budget Reconciliation Act (OBRA) of 1993, which was then pending before the House and Senate. On that date, the Administration provided preliminary mid-session estimates of the deficit. President Clinton signed OBRA of 1993 into law on August 10 (as P.L. 103-66) and transmitted the mid-session review for FY1994 to Congress on September 1, 48 days late.

President Clinton's action stirred controversy in Congress because some Members wanted an updated assessment of the budgetary situation before voting on the conference report on OBRA of 1993. On July 20, 1993, the Senate tabled an amendment (by a vote of 56 to 43) offered by Senator Pete Domenici to H.R. 25, the Hatch Act Reform Amendments.⁵ Senator Domenici's amendment stated:

It is the sense of the Senate that the President should submit the supplementary budget as required by law no later than July 16 and the requisite information therein required, but in no event later than July 26, 1993.

³ See p. 53 of H.Rept. 100-313 (Sept. 21, 1987), *Increasing the Statutory Limit on the Public Debt*.

⁴ The BEA of 1990 is Title XIII of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, signed into law on Nov. 5, 1990).

⁵ The final disposition of Domenici Modified Amendment No. 597 is found in the *Congressional Record* of July 20, 1993, at pages S8920-8924 and S8951. Senator Domenici offered and then modified the amendment on July 15 (see the *Congressional Record* of that date at pages S8795 and S8808, respectively).

Senator Larry Craig discussed various patterns in the timing of submission of the mid-session review during years in which the House and Senate considered reconciliation legislation.⁶

President Clinton used the mid-session review for FY1994 in part to recount the actions that led to the enactment of OBRA of 1993 and to discuss the features of that act. He used the mid-session review for FY1995 and subsequent years to discuss the status of legislation under the discretionary spending limits and the PAYGO requirement.

President Clinton: FY1998. As had been the case for FY1994, the submission of the mid-session review for FY1998 was delayed until after Congress completed action on reconciliation legislation. The delay in this case, until September 5, 1997, was the longest incurred during the 26-year period — 52 days. Unlike the experience for FY1994, however, the delay was not accompanied by controversy.

In May 1997, the Clinton Administration and congressional leaders reached agreement on a plan to balance the budget by FY2002. On July 31 and August 5, President Clinton signed into law the two reconciliation acts that implemented most of the balanced-budget policies. The delayed issuance of the mid-session review for FY1998 allowed President Clinton to render a final accounting with respect to the budgetary impact of the two measures, which amounted to \$247 billion in savings over five years (yielding an estimated surplus of \$63 billion for FY2002).

President George W. Bush: FY2002. The issuance of the mid-session review again was associated with controversy in 2001, although probably more for its contents than the timing of its release. President George W. Bush submitted his transition budget for FY2002 to Congress on April 9. His budget recommended, among other things, that Congress enact a 10-year tax cut of about \$1.6 trillion while at the same time preserving the entire surplus in the Social Security trust funds.

In May, Congress adopted the budget resolution for FY2002 (H.Con.Res. 83), affirming its commitment to a somewhat smaller tax cut (about \$1.35 billion) and to preserving the Social Security surplus. The on-budget surplus, which excludes the transactions of the Social Security trust funds, was estimated at that time to be about \$30 billion for FY2001 and \$48 billion for FY2002. These amounts represented the resources that could be allocated during the remainder of the session for additional defense spending and other budget priorities (principally under “reserve fund” procedures) without violating the pledge to preserve the Social Security surplus.

Following the adoption of the budget resolution, the House and Senate agreed to a revenue reconciliation measure providing the recommended level of tax cuts; President Bush signed it into law on June 7 (as P.L. 107-16). During the remainder of June and into July, the House and Senate focused on the consideration of the regular appropriations bills.

⁶ See his remarks in the *Congressional Record* of Aug. 5, 1993, at pages S10523-S10529.

The FY2002 mid-session review was issued on August 22 (38 days late), while the House and Senate were in recess. It indicated that, owing largely to unexpected weakness in the economy, the estimates of the on-budget surpluses for FY2001 and FY2002 had dropped to \$1 billion for each year.⁷ Accordingly, the amount available for allocation to defense spending and other priorities had been reduced significantly. The returning House and Senate faced the prospect of completing action on the regular appropriations measures for FY2002 with less than a month before the beginning of the fiscal year (on October 1) and under much tighter budgetary constraints than had previously been assumed.

Circumstances of Accelerated Submission

In 1998, President Clinton submitted the mid-session review for FY1999 nearly two months (50 days) early — on May 26. In February 1998, the President's budget for FY1999 estimated a \$10 billion deficit for the current year, FY1998. The mid-session review revised this estimate to a surplus of \$39 billion. The President's reestimate for FY1998 (and subsequent years) paralleled significantly improved reestimates made by the Congressional Budget Office and private forecasters.

The prospect of the first surplus in nearly three decades, and growing surpluses in the following years, sparked congressional interest in acting on sizeable tax-cut legislation during the session. President Clinton argued instead that the budget surpluses should be “reserved” until changes could be made in the Social Security program to strengthen its long-term financial soundness.

According to some Members of Congress, the issuance of the mid-session review may have been accelerated to strengthen the President's hand. Had the President waited until the July 15 deadline, they assert, the surplus estimates might have been much higher, fueling even greater interest in the tax-cut proposals to which he objected.

⁷ The Congressional Budget Office issued *The Budget and Economic Outlook: An Update* on Aug. 28, indicating that the on-budget surplus for FY2002 had fallen to \$2 billion (and had become an on-budget deficit of \$9 billion for FY2001).

Appendix A.

Statutory Requirement for a Mid-Session Review of the President's Budget (31 U.S.C. 1106)

Sec. 1106. Supplemental budget estimates and changes. (a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include —

(1) for that fiscal year —

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title;

and (D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)-(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate