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Report to the Chairman, Committee on Government Operations, House of Representatives

July 1994

BUDGET POLICY

Issues in Capping Mandatory Spending

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GAO

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Accounting and Information
Management Division

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July 18, 1994

The Honorable John Conyers, Jr.
Chairman, Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we examine whether the implementation of a budgetery cap on mandatory spending is a practical way to control the growth of mandatory programs. In this report we (1) survey the accounts and activities that currently comprise mandatory spending and review their recent growth, (2) examine recent cap proposals to understand issues policymakers would face, (3) identify differences in the ways that mandatory programs are designed and financed, and (4) analyze how these differences affect prospects for achieving any specified level of savings from a cap that is similar to the caps that recently have been proposed. This report also contains a matter for congressional consideration.

We are sending copies of this report to the Ranking Minority Member of your Committee, the Director of the Office of Management and Budget, appropriate executive branch agencies, the Director of the Congressional Budget Office, appropriate congressional committees and Members, and other interested parties. We will also make copies available to others upon request.

Please call me at (202) 512-9412 if you have any questions concerning this report. Major contributors to this report are listed in appendix IV.

Sincerely yours,

Susan J Irving

Susan J. Irving
Associate Director, Budget Issues

Executive Summary

Purpose

The Congress continues to search for new ways to reduce the deficit. Mandatory programs—many of which entitle eligible individuals and entities to prescribed benefits—are increasingly the focus of attention because of their size and rates of growth. From 1986 to 1993, average annual real growth in mandatory spending was 3.5 percent (excluding net interest and deposit insurance) compared to 2.6 percent for nondefense discretionary spending.[1] Current budgetary controls require new mandatory programs to be deficit neutral but do not constrain the growth of existing mandatory programs. This has led policymakers to search for new tools to limit spending, such as a budgetary cap on mandatory spending.

The Chairman of the House Committee on Government Operations asked GAO to examine issues agencies would face in implementing a spending cap on mandatory programs. This report (1) identifies the accounts and activities that currently comprise mandatory spending and reviews their recent growth, (2) examines recent cap proposals to understand the issues that would be faced by implementing a spending cap on mandatory programs, (3) identifies differences in the ways that mandatory programs are designed and financed, and (4) analyzes how these differences affect prospects for achieving budgetary savings from implementing a spending cap similar to those that recently have been proposed.

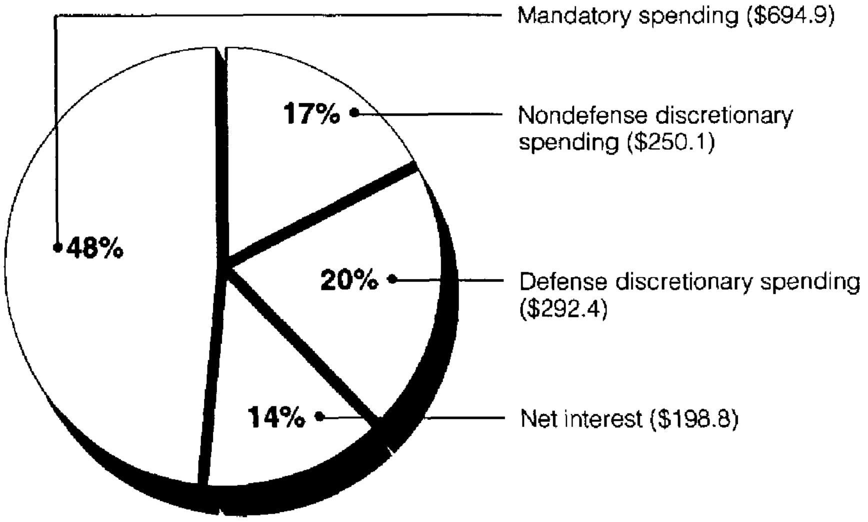
GAO examined issues involved in sequestering mandatory programs and how those issues affect the implementation of a cap and the ability to achieve any given level of savings from actions taken in response to a cap breach. GAO's analysis was necessarily prospective because a cap on mandatory spending has never been applied on a systematic basis. This is important because predicting what would happen if a cap on mandatory spending were imposed is inherently more difficult than looking back to ascertain its consequences. GAO did not completely catalog the design issues involved in trying to cap mandatory programs. Therefore, the report does not look at the ways in which mandatory programs could be altered to make these programs more compatible with budgetary control techniques such as a cap, nor does it consider the possible consequences a cap could have for program beneficiaries or service delivery.

[1] Although the terms "mandatory programs" and "entitlements" are often used interchangeably, as the report explains later, they are not the same thing. Throughout this report, GAO uses the term mandatory spending to mean all mandatory outlays except net interest and deposit insurance—which represent the liquidation of prior obligations—net of undistributed offsetting receipts.

Background

The Budget Enforcement Act (BEA) defines direct spending—also known as mandatory spending—as spending for entitlement authority, the Food Stamp program, and budget authority provided by law other than appropriations acts. Although all entitlements are mandatories, not all mandatories are entitlements. Mandatory programs include familiar benefits and services—among them Social Security, Medicaid, and Medicare—as well as other lesser-known activities, such as revolving funds[2] and certain activities of the National Park Service, the U.S. Customs Service, and the federal judiciary. Mandatory spending totals 48 percent of net outlays, as shown in figure 1.

Figure 1: Share of Actual Fiscal Year 1993 Federal Outlays



Note: Mandatory spending excludes $-28 billion in deposit insurance outlays.

The Congress has altered the budget process significantly during the past decade in its effort to reduce the deficit. Today, discretionary spending is subject to fixed-dollar caps established in law. These caps are

[2] A revolving fund is a fund comprised of collections credited to appropriations or other fund accounts. In all three types of revolving funds—public enterprise, intragovernmental, and trust revolving—offsetting collections are netted against spending, and outlays are reported as the net amount.

implemented through the budget and appropriations processes.[3] In contrast, mandatory spending is governed by eligibility rules and benefit formulas. Funds are spent as required to meet the needs of all those who are eligible and wish to participate. Therefore, unforeseen events—such as changes in the economy or additional demands for services—can translate into unanticipated additional program outlays.

Policymakers are not without means to control mandatory spending, however. The Congress can at any time amend individual program statutes. In addition, mandatory spending is subject to reconciliation and pay-as-you-go (PAYGO) procedures. In reconciliation the Congress votes on program changes in mandatory programs in order to bring mandatory spending into conformity with the congressional budget resolution. PAYGO procedures require that new tax and mandatory spending[4] proposals—or expansions of current mandatory programs or tax provisions—be deficit neutral; this means that in the aggregate, PAYGO-controlled legislation cannot increase the deficit.[5] However, PAYGO was not designed to restrain the increased costs of existing mandatory programs that result from increases in the number of beneficiaries, utilization, or higher service delivery costs. Instead, PAYGO accepts the existing benefit structures of mandatory programs and aims to stop legislated expansions in benefits or beneficiary populations.

Recently, there has been a growing interest in whether new budget tools could control mandatory spending even if that means reducing program benefits. Among the tools most discussed—and proposed—are caps on mandatory spending. Similar to current caps on discretionary spending, each of these proposals determines an allowable ceiling of spending and establishes a sequester of mandatory spending to be implemented by federal agencies should spending exceed the ceiling.

To examine implementation issues, GAO developed a "representative cap" (described in chapter 3) that was modeled on recent proposed caps and applied this cap to 11 programs comprising 90 percent of total mandatory spending. GAO then convened panels of agency officials who had program, legal, and budget expertise in order to analyze cap implementation in the

[3] BEA requires the President to adjust these limits for specific reasons, including changes in concepts and definitions and designated emergencies.

[4] As noted before, BEA refers to direct spending. The BEA definition of direct spending is the same as our definition of mandatory spending.

[5] Aggregate deficit changes for 2 fiscal years determine whether there is a PAYGO sequester.

11 programs and understand the issues agencies would face in the event of a sequester.

Results in Brief

Although a spending cap on mandatory programs would achieve savings, a cap would have little, if any, effect on the longer term growth trends in these programs until issues of underlying eligibility and benefits which drive spending are addressed. Mandatory programs are not controlled by annual appropriations, as discretionary programs are. Rather, most mandatory spending is driven by eligibility and benefit formulas which a sequester may not change. Many sponsors of cap proposals acknowledge these issues and argue that the threat of a sequester would force the Congress to enact changes in the underlying structure of mandatory programs which fuels their growth.

Should a sequester actually be imposed, however, agency problems in successfully reducing mandatory program spending to within cap levels could lead to a cycle of continuous sequestrations. This is because, unlike the current open-ended funding environment, any shortfalls in savings or growth in spending that occurred despite agency efforts would be added to the amount of cuts required in the next year. Five design characteristics—including shared implementation responsibilities with states—that have made mandatory programs hard to control in the past are also the factors that will make it difficult for agencies that administer these programs to plan, apportion, and administer program changes necessary to enforce a cap.

Moreover, the mandatory programs that would be most affected by a cap—because of their high and/or volatile growth rates—are also the programs for which a cap will be hardest to implement. This would be the case even if the Congress specified the approach agencies should follow in sequestering individual programs. Furthermore, unlike discretionary programs in which spending cuts permanently lower the base for future appropriations, sequesters of mandatory programs may not alter the base from which future spending grows.

This does not mean that the Congress must accept the current situation. Congress can at any time enact changes in individual programs either alone or as part of reconciliation. Another way to prompt congressional review of mandatory spending trends would be to require the Congress periodically to vote on whether or not to make program changes when mandatory spending exceeds certain targets.

GAO's Analysis

Most Mandatory Spending and Growth Occurred in a Few Programs

Just over 90 percent of fiscal year 1993 mandatory net outlays occurred in 11 programs: Medicare, Medicaid, Social Security Old-Age and Survivors Insurance (OASI), Supplemental Security Income (SSI), Social Security Disability Insurance (DI), Earned Income Tax Credit (EITC), Civil Service Retirement—including the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS)—Foster Care, Military Retirement Fund (MRF), Child Nutrition, and the Federal Employees Health Benefits Program (FEHBP).[6] Over the past decade, these 11 had real dollar increases totaling $136 billion, while spending for all other mandatory programs declined by $39 billion.

Rates of growth, which are the basis upon which a sequester would be triggered, varied among the 11 programs, as evidenced by figure 2. (Figure 3 shows actual net outlays.) The three pension programs grew more slowly than the remaining eight. Figure 4 shows that from 1983 to 1993, these programs combined rarely exceeded real growth rates of 2 percent. In comparison, all other programs ranged from 2 to 15 percent and displayed highly variable rates of growth. For example, Medicaid grew sporadically, peaking at 25 percent. Foster Care rates were even more volatile, ranging from –3 percent to 54 percent over the period.

[6] While this report refers to the Child Nutrition program, the legislation funds a number of food and nutrition programs. Appendix I presents information on some of these larger programs.

Figure 2: Average Annual Real Growth Rates in Mandatory Programs, Fiscal Years 1983-1993

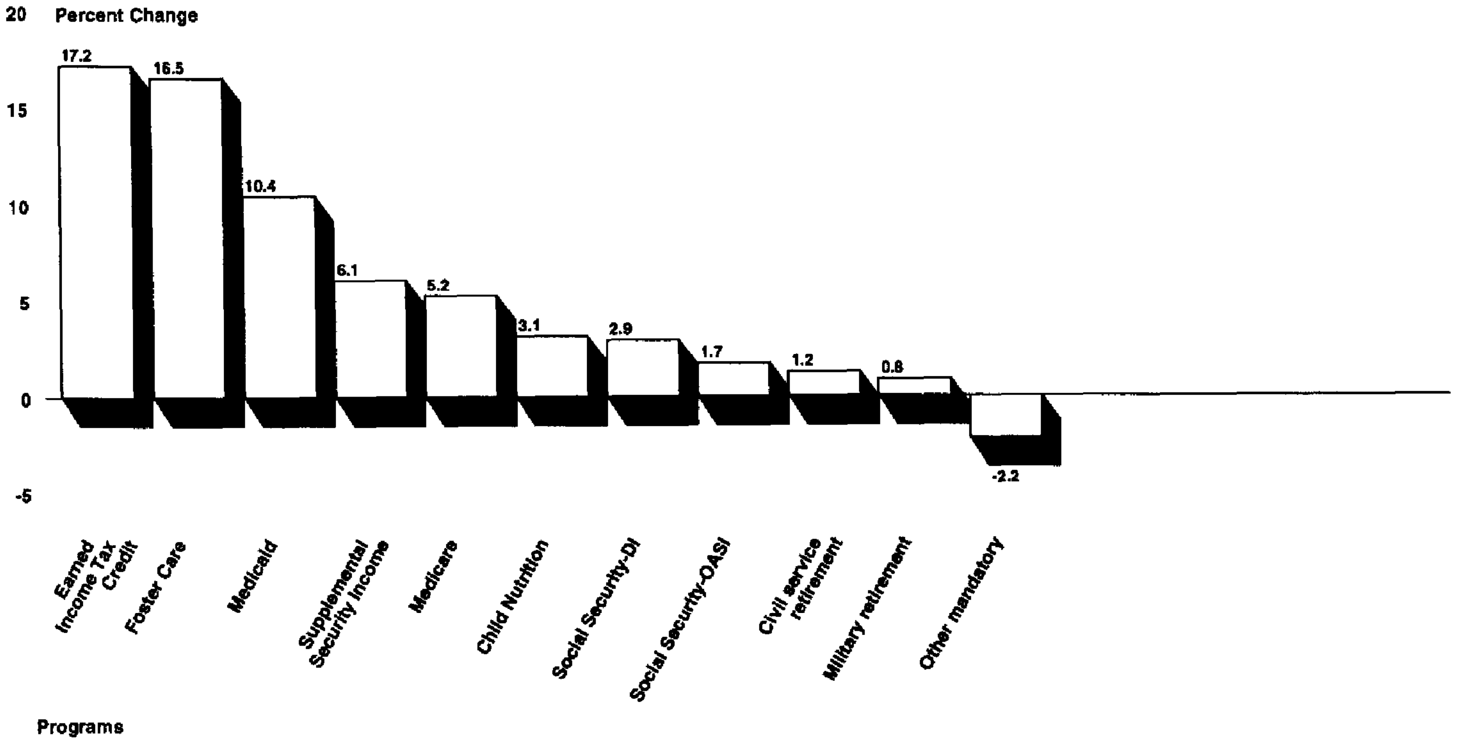


Figure 3: Actual Net Outlays in Real Dollars for Mandatory Programs, Fiscal Year 1993

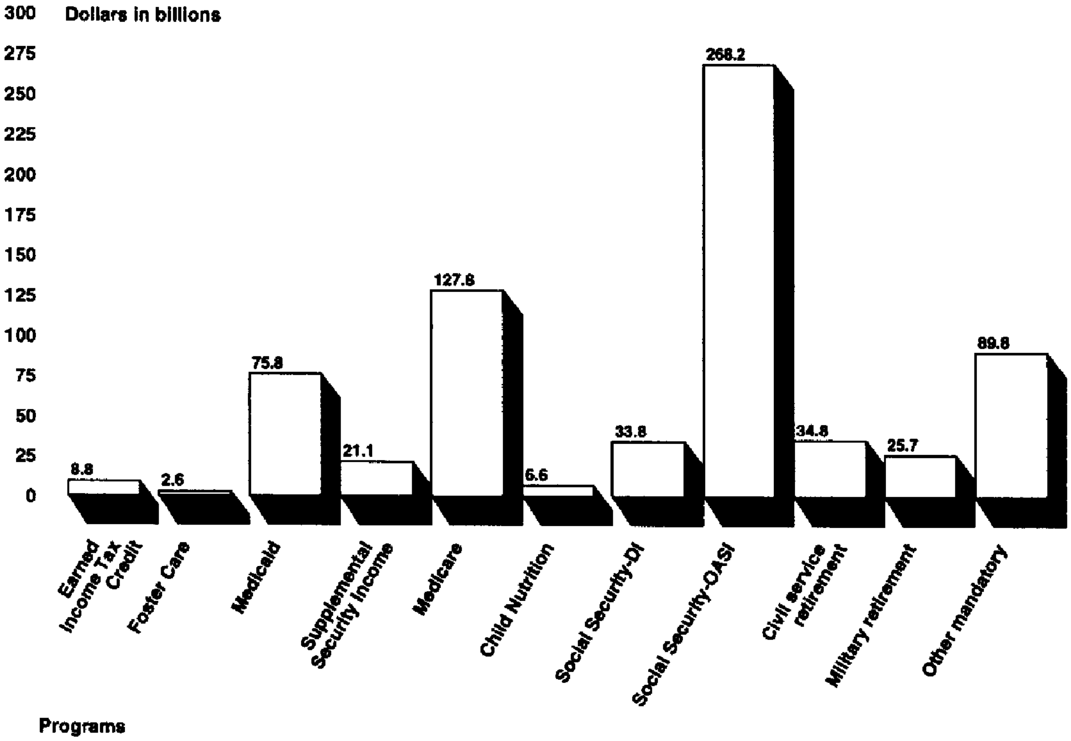
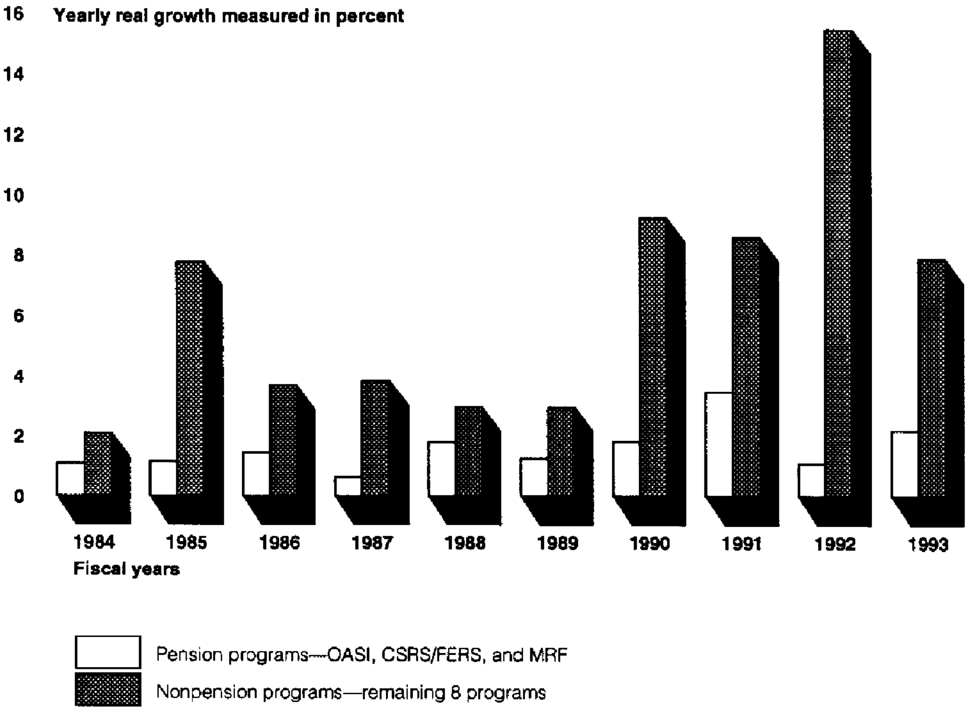


Figure 4: Growth of Pension and Nonpension Programs



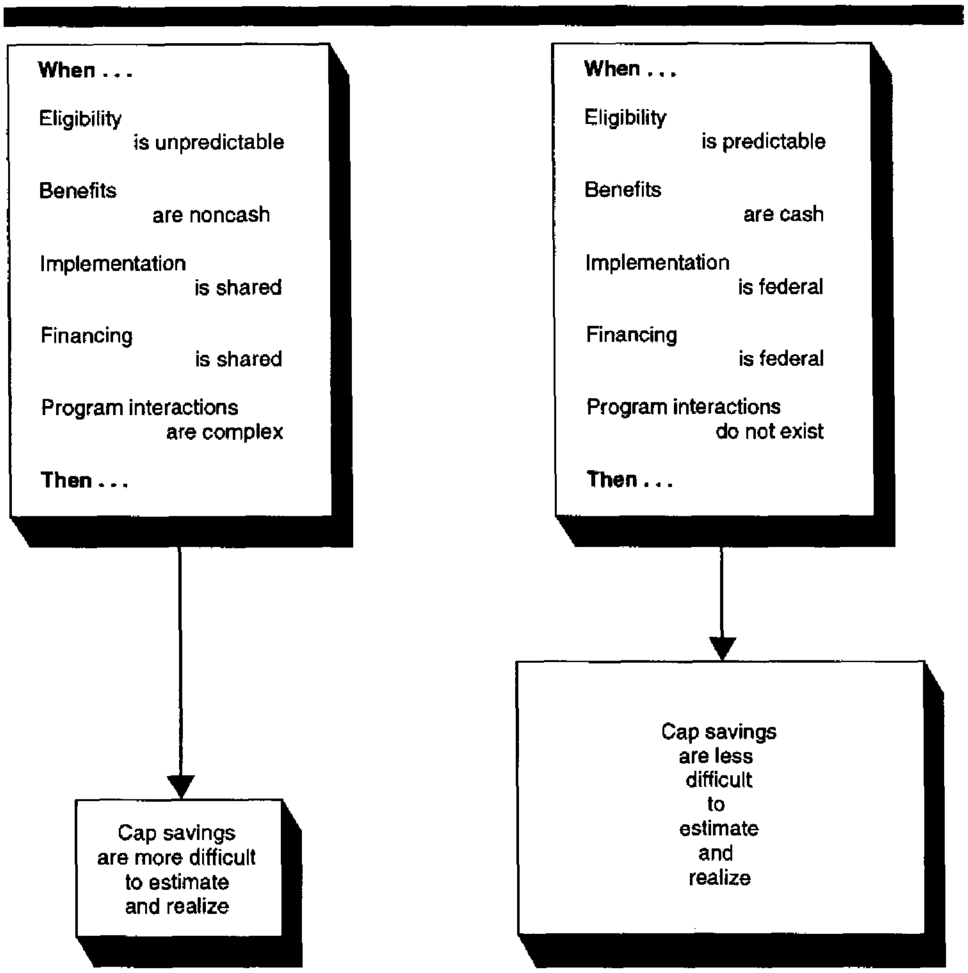
Legal Issues Raised by a Mandatory Spending Cap

Proposals to cap mandatory spending programs raise two fundamental legal questions: (1) whether the Congress has the authority to cap such spending and (2) whether the Congress can delegate its authority to implement its decisions. As appendix III notes, the courts have upheld the right of the Congress to alter statutorily created entitlements and delegate authority to agencies to implement such legislative decisions. Although legal challenges may arise, a carefully crafted and administered mandatory spending cap modifying the underlying statutory entitlement to benefits should survive legal challenges. Several legal issues potentially raised by agency implementation of a cap are also discussed in appendix III.

Certain Characteristics Are Likely to Affect Cap Implementation

Figure 5 lists the five program characteristics GAO identified that would impinge on cap implementation because they would affect the agencies' ability to plan, apportion, and administer the program changes necessary to realize savings from a spending cap. GAO presents three of these characteristics of design and financing to illustrate their effect on agencies' ability to implement changes in the event their programs exceeded allowable spending under a cap: the ability to predict eligibility, the type of benefit (cash or noncash), and responsibility for program implementation.

Figure 5: Implementation Features and Their Effect on Savings


When . . .
Eligibility is unpredictable
Benefits are noncash
Implementation is shared
Financing is shared
Program interactions are complex
Then . . .
Cap savings are more difficult to estimate and realize
When . . .
Eligibility is predictable
Benefits are cash
Implementation is federal
Financing is federal
Program interactions do not exist
Then . . .
Cap savings are less difficult to estimate and realize

Panel members from 7 of the 11 mandatory programs found that predicting eligibility accurately—either the number of beneficiaries, the amount of services, or both—was moderately or very difficult to do. In particular, officials responsible for health, disability, and social services for children reported that fluctuations in beneficiaries or benefit levels limited their ability to gauge program spending. Because of this, estimating savings from actions taken to recoup spending overages would be highly uncertain.

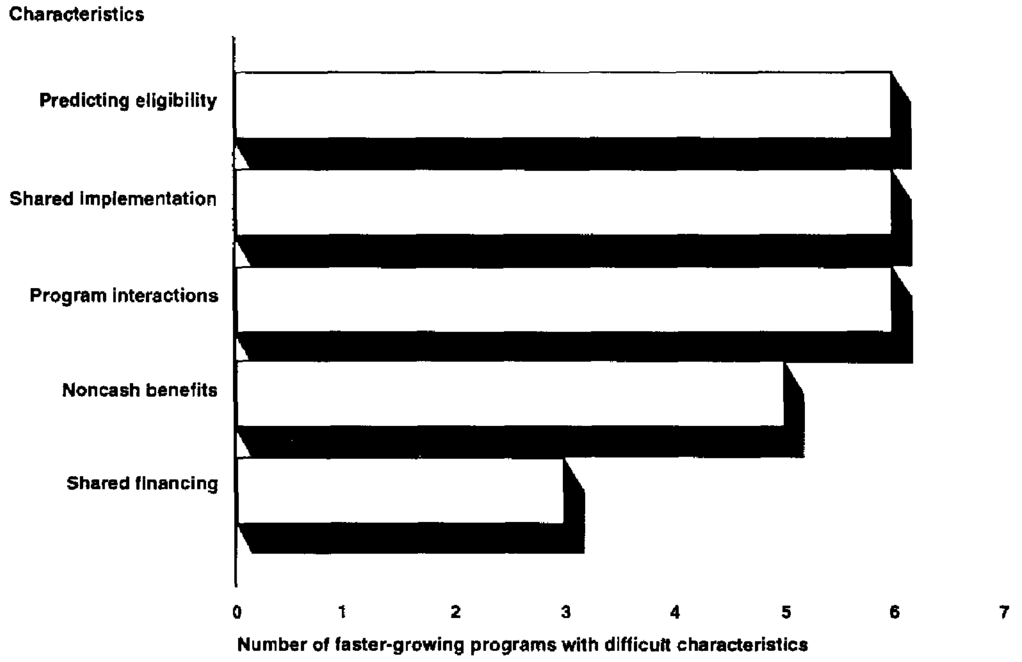
Capping spending for programs that provide noncash benefits (that is, in which the federal government pays a second entity to distribute health or other social services) poses special difficulties for 5 of 11 mandatory programs. Noncash benefits are often distributed unevenly depending upon an individual's need for specific services. When the use of services varies among beneficiaries, the savings from actions taken to limit spending are then difficult to estimate. For example, eligibility reductions could eliminate an individual who uses many services—thus reducing large amounts of spending—or one who uses hardly any. Furthermore, eliminating specific services—such as nursing home care—can shift demand to other, higher cost areas within the same program, such as inpatient hospitalization.

Shared responsibility for program implementation—between the federal government and states, localities, and/or other service providers—reduced the certainty that the federal government would achieve the amount of savings required by a cap. Six of 11 panels, representing health, disability, and social services for children identified their program as one with shared responsibility for carrying out federal program objectives. Those in partnership with the federal government have other considerations and pressures that could preclude or lessen their ability to focus solely on reducing federal program costs. In particular, if federal agencies make changes that affect administration or benefits and beneficiaries, states and other federal partners may take actions that are not consistent with federal objectives.

Faster Growing Programs Have Highest Incidence of Complicating Characteristics

The 7 programs with the largest expected overages—Child Nutrition, DI, FEHBP, Foster Care, Medicaid, Medicare, and SSI—also reported the highest incidence of program characteristics complicating cap implementation, as shown in figure 6. Six of these 7 program panels identified difficulties predicting eligibility and benefit levels. Six anticipated problems because they shared responsibility for implementing program objectives. Six also reported problems related to program interactions. Obstacles related to noncash benefits affected 5 programs and 3 programs shared financing with other entities.

Figure 6: Complicating Characteristics for Faster Growing Mandatory Programs



In contrast, OASI, military and civil service retirement—pension programs with a growth rate of 1.57 percent—reported the lowest incidence of program features interfering with cap implementation. Notably, pension program eligibility is easy to predict, and cash benefits are calculated through established formulas so spending can be estimated accurately. These programs are federally administered. Hence, no other entities are institutionally positioned to interfere with cap implementation. Program financing is either federal or jointly funded with federal and individual contributions. Generally, the programs easiest to cap also have—on a percentage basis—the smallest spending overages.[7]

Estimation Difficulties Increase the Likelihood of Future Sequesters

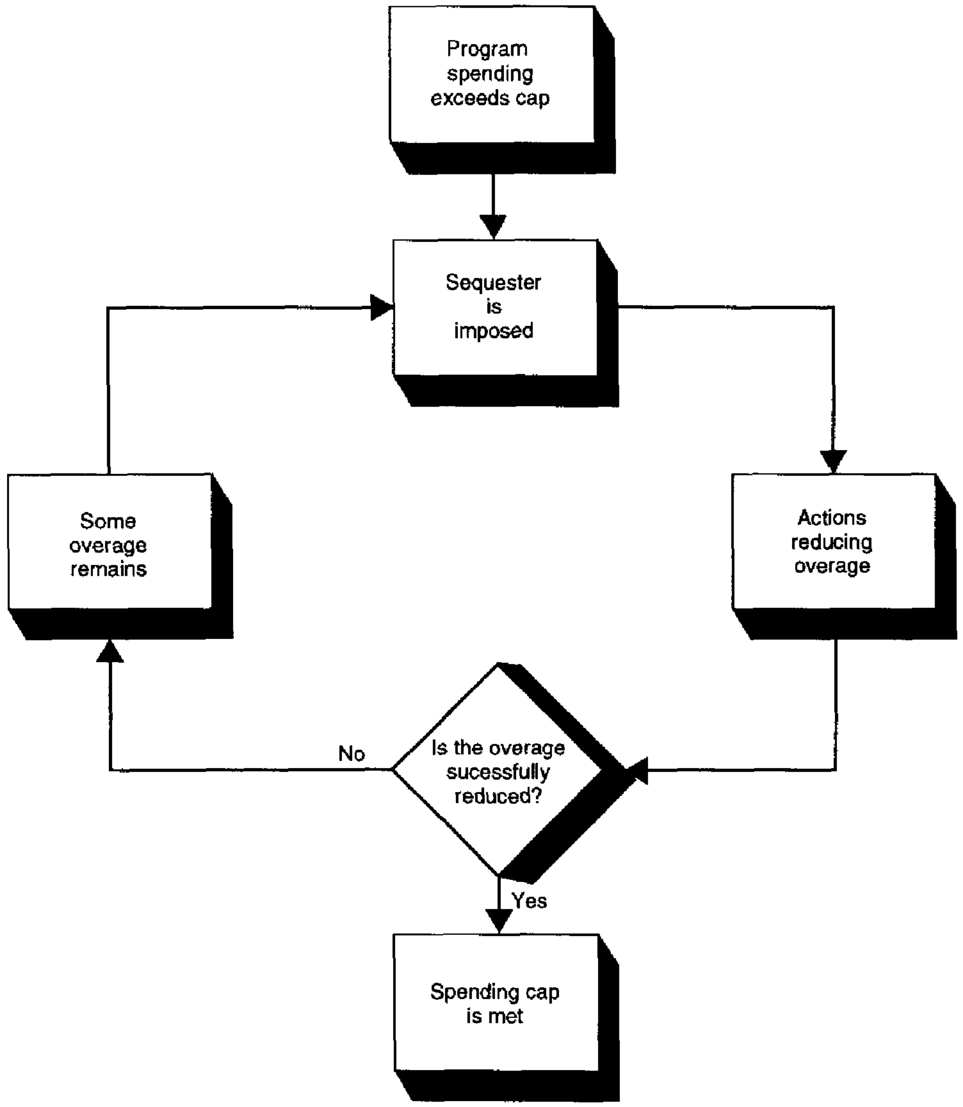
The implementation difficulties agency panels associated with predicting program eligibility and shared implementation are part of a broader problem affecting a cap—that of estimating and projecting mandatory program spending accurately. Estimation problems could hinder agency

[7] This is not to suggest that no savings can be achieved from pension programs. For example, recouping a .5 percent reduction in OASI spending could yield as much as $1.2 billion in savings.

implementation of a cap in a number of ways. First, agencies could find it more difficult to anticipate the size or probability of any sequester. Fluctuations in past spending led some panels to note that they would have difficulty predicting the size of any spending overage. Second, as noted, agencies might find it hard to accurately estimate the budgetary impact of program changes they must make to avoid a sequester—since results often depend on the behavior of states, local governments, service providers, and other entities that share implementation responsibilities.

Finally, agencies would be less certain that any program changes they made would be sufficient to avoid a subsequent sequester. If overall spending is underestimated, the savings from program changes—even though realized—might not be enough to hold spending below capped levels. Failure to stay within the caps in 1 year would increase the likelihood of breaching the cap in future years, raising the prospect of an endless cycle of sequesters, as figure 7 shows. Furthermore, unlike a discretionary cap in which spending cuts permanently lower the base from which future spending grows, a mandatory cap could have little, if any, effect on the longer term spending path—until issues of underlying eligibility and benefits were addressed and/or the cuts were made permanent.

Figure 7: When Program Spending Exceeds a Cap


Program spending exceeds cap
Sequester is imposed
Some overage remains
Actions reducing overage
No
Is the overage sucessfully reduced?
Yes
Spending cap is met

Matter for Congressional Consideration

GAO has argued that reducing the deficit is critical to the nation's long-term economic future. Given the role of mandatory spending in the budget, GAO has also said that bringing existing mandatory spending under some budgetary control is important. However, GAO's analysis of cap implementation identifies enough problems to raise concerns.

Cap problems do not mean that the Congress must accept the current condition. Congress can at any time enact changes in individual programs alone or as part of reconciliation. Another way to prompt congressional review of mandatory spending trends would be to require the Congress to vote periodically on whether or not to make program changes when mandatory spending exceeds certain targets. In the event that spending is projected to be below targets, the Congress might want to lower the targets to prompt consideration of program changes. Unlike a cap, such a process leaves it to the Congress to make policy changes, and it is neither automatic nor formulaic. Rather, proposed changes in the underlying benefits structure and design of mandatory programs would be considered in the context of a broader analysis, including the economic and other factors that drove spending.

Along these lines, the Congress could adopt a procedure similar to that adopted by the House in the Omnibus Budget Reconciliation Act (OBRA) of 1993 (but dropped in conference) and later recommended by the House members of the Joint Committee on the Organization of Congress. This proposal created a mechanism to monitor the costs of mandatory spending and make cuts where needed. It required the administration to submit a report to the Congress specifying direct spending targets for fiscal years 1994 through 1997. If the President's next budget showed that these targets were exceeded in the prior year or would be exceeded in the current or budget years, the administration would be required to analyze the causes of the overage and recommend ways to deal with it—which could include doing nothing. The Congress would be required to act on the administration's recommendation.

The Congress may wish to consider a process under which it is periodically required to look back and assess the status of mandatory spending. Such a look-back would require the Congress to vote on whether to and/or how to change mandatory programs to reduce spending. In this process, the Congress would examine the causes of growth in mandatory spending and consider changes in the underlying design and benefits structure of mandatory programs to achieve reductions in spending if some reduction is deemed appropriate.

Agency Comments

GAO did not obtain agency comments on a draft of this report. GAO did, however, discuss its contents with cognizant officials of executive branch agencies whose mandatory programs were reviewed and cognizant officials of the Office of Management and Budget and the Congressional Budget Office. Their views have been incorporated where appropriate.

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Abbreviations

AFDC	Aid to Families With Dependent Children
BEA	Budget Enforcement Act
BPS	Budget Preparation System
CBO	Congressional Budget Office
CIA	Central Intelligence Agency
COLA	cost of living adjustment
CPI	Consumer Price Index
CSIS	Center for Strategic and International Studies
CSRS	Civil Service Retirement System
DI	Disability Insurance
DOD	Department of Defense
EITC	Earned Income Tax Credit
EPA	Environmental Protection Agency
ESRD	end stage renal disease

FAA	Federal Aviation Administration
FCAA	Foster Care and Adoption Assistance
FDIC	Federal Deposit Insurance Corporation
FEHBP	Federal Employees Health Benefits Program
FEMA	Federal Emergency Management Agency
FERS	Federal Employees Retirement System
FHA	Federal Housing Administration
FNS	Food and Nutrition Service
GDP	gross domestic product
GRH	Gramm-Rudman-Hollings
GSA	General Services Administration
HCFA	Health Care Financing Administration
HHS	Department of Health and Human Services
HHS/SS	Health and Human Services, Social Security
HI	hospital insurance
HUD	Housing and Urban Development
IRS	Internal Revenue Service
MRF	Military Retirement Fund
NSLP	National School Lunch Program
OASI	Old-Age and Survivors Insurance
OBRA	Omnibus Budget Reconciliation Act
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PAYGO	pay-as-you-go
RRB	Railroad Retirement Board
SBA	Small Business Administration
SBP	School Breakfast Program
SSI	Supplemental Security Income
VA	Veterans Affairs

Chapter 1

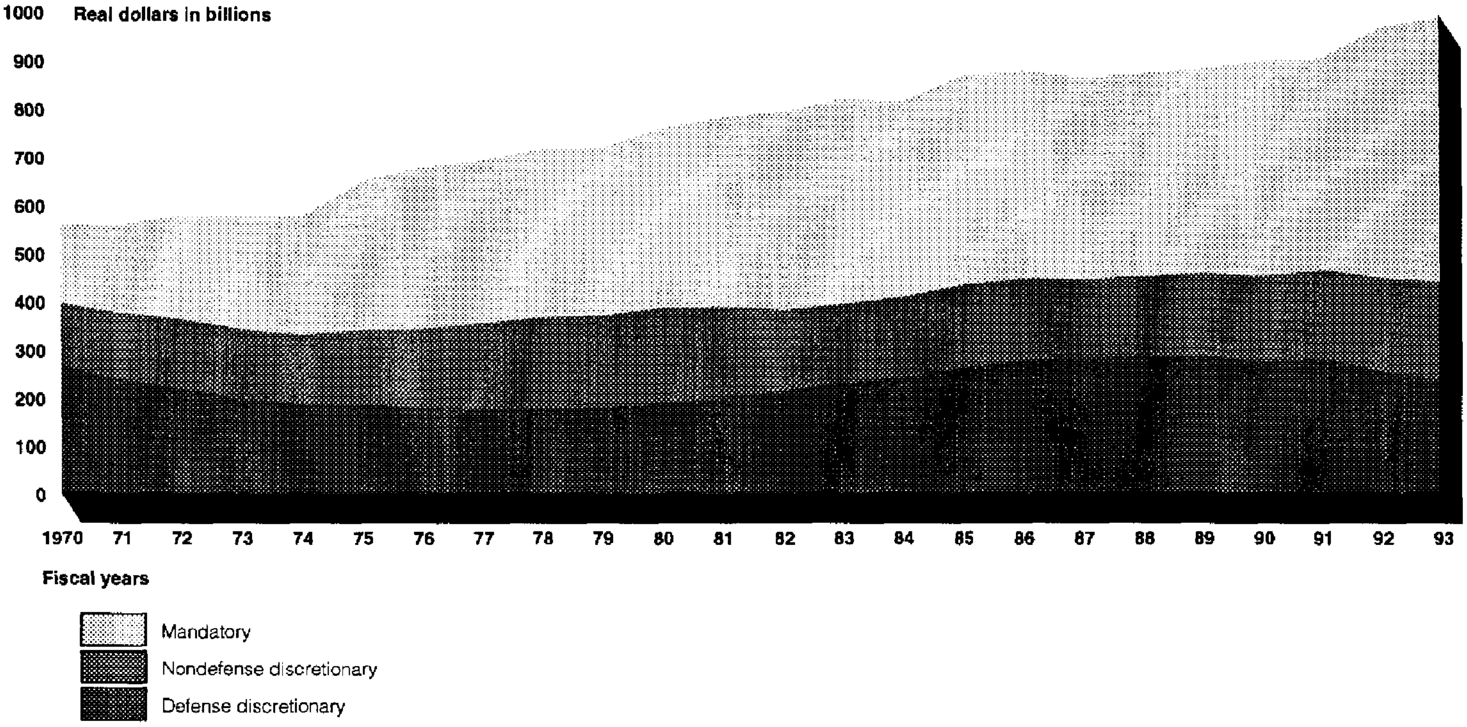
Introduction

This chapter provides background for our analysis of the implementation issues that would arise if a cap were to be imposed on mandatory spending. In it we define mandatory spending and trace its growth. We describe how recent deficit reduction efforts formalized distinctions between mandatory and discretionary spending categories. We explain how the current budget process treats mandatory spending differently from discretionary spending. This chapter ends with a presentation of the framework and methods used in our analysis.

Background

Most mandatory spending programs entitle eligible individuals and entities to prescribed health, pension, or other benefits. In fiscal year 1993, as figure 1.1 shows, real mandatory spending—excluding net interest and deposit insurance—accounted for $544.0 billion in federal outlays, up over three-fold from $160.5 billion in 1970. In contrast to discretionary spending, which is controlled through 'annual appropriations and subject to budgetary caps, mandatory spending is controlled less directly, through authorizing legislation. Policymakers are not without means to restrain mandatory spending, however. The Congress can at any time amend individual program statutes. In addition, reconciliation procedures established by the Congressional Budget and Impoundment Control Act of 1974 are used to enact changes and reduce expenditures in existing programs. And, since the passage of the Budget Enforcement Act (BEA) in 1990, pay-as-you-go (PAYGO) rules limit mandatory program expansions by requiring that legislation in the PAYGO-controlled category be deficit neutral.

Figure 1.1: Mandatory and Discretionary Spending, Fiscal Years 1970-1993



However, believing that mandatory programs must contribute more to deficit reduction efforts—and frustrated that current controls exempt major portions of mandatory spending from budgetary control—policymakers are considering whether new budgetary tools are needed. The belief that budgetary caps have successfully constrained increases in discretionary spending has increased interest in applying similar controls to mandatory programs to yield comparable results.

Mandatory Spending Is a Broad Category, Comprising a Growing Share of Total Outlays

As currently defined by BEA, mandatory spending, also termed direct spending, is spending for entitlement authority, the Food Stamp program, and budget authority provided by law other than appropriations acts. Although all entitlements are mandatory programs, not all mandatories are entitlements. Mandatory spending encompasses a broader range of programs and activities. Mandatory programs provide both familiar and lesser-known benefits and services to many kinds of people. Some well-known programs provide health care, foster care, and nutrition services; others pay cash benefits to poor people, retirees, and the disabled. However, mandatory spending also includes programs not commonly thought of in this category, including revolving funds[1] and certain activities of the National Park Service, the U.S. Customs Service, the Tennessee Valley Authority, and the federal judiciary. (Appendix II, which lists all mandatory accounts, shows the wide variety of activities in this category.) While net interest also contributes to the growth in mandatory spending, it is not a program in the ordinary sense of the term, nor could it be limited by a cap. Accordingly, we have eliminated it—and deposit insurance—from consideration in our study.[2]

Mandatory spending rose to a significant percentage of total federal spending during the 1970s, surpassing 40 percent of total federal spending by 1975. As a percentage of gross domestic product, mandatory outlays increased from 9.7 percent in 1975 to 11 percent in 1993. Between 1986 and 1993, the average annual real growth in mandatory spending was 3.5 percent, compared to 2.6 percent for nondefense discretionary spending. These aggregate growth trends mask important differences. Notably, as described more fully in chapter 2 of this report, the absolute size and pace of mandatory spending increases is tied to the rising costs of a few large programs, especially health.

Deficit Reduction Legislation Recognized Differences Between Mandatory and Discretionary Spending

The Congress has altered the budget process significantly during the past decade. Deficit reduction legislation expanded the differences in treatment between mandatory and discretionary spending. The stated purpose of the Balanced Budget and Emergency Deficit Control Act of 1985—known as Gramm-Rudman-Hollings or GRH—was to bring spending and revenues into balance by 1991. To accomplish this, GRH established declining annual deficit targets and created sequestration[3] procedures to enforce them. If policymakers failed to meet the targets through legislative actions, GRH required automatic, across-the-board cuts in nonexempt programs to reduce the deficit.

[1] A revolving fund is a fund comprised of collections credited to appropriations or other fund accounts. In all three types of revolving funds—public enterprise, intragovernmental, and trust—offsetting collections are netted against spending, and outlays are reported as the net amount.

[2] Outlays for both net interest and deposit insurance reflect the payment of prior obligations and cannot be controlled directly.

[3] Sequestration is the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

To accomplish its goals, GRH treated mandatory and discretionary programs differently. Mandatory spending and discretionary spending differ not only in their funding, but also in the locus of legislative jurisdiction. Mandatory spending is driven by authorizing legislation and the level of spending is not controlled by appropriations.[4] For discretionary programs, authorizations and appropriations are separate, with the latter controlling the level of spending.

GRH exempted nearly 60 percent of spending from sequestration. The short history leading to GRH's passage shows that legislative negotiations reduced the scope of sequestration in order to protect two groups of mandatory spending beneficiaries—pensioners and beneficiaries of income or means-tested programs. Some of the larger programs exempted—mostly mandatory—were net interest, Social Security, and means-tested benefit payments. As initially proposed, GRH exempted only Social Security. To gain support for the legislation, exemptions for pension programs providing benefits to veterans and military and civilian retirees were added. Legislators also exempted certain income-tested programs regarded as integral to the social safety net, including Medicaid, the Earned Income Tax Credit (EITC), and Child Nutrition. When complete, the list of exempted programs contained over 140 accounts and activities totaling 60 percent of spending, including 8 of the 11 programs examined in detail for this report.

Sequestration Under GRH

GRH limited the fiscal year 1986 sequester to $11.7 billion. Of this amount, $1.0 billion was in mandatory spending. The GRH sequestration of eligible mandatory accounts produced varied outcomes. Some programs—such as Medicare and Foster Care—operated under special rules that allowed for limited spending reductions. Fiscal year 1986 reductions in Medicare—obtained by effecting a 1-percent reduction in reimbursement levels—were estimated at $300 million by CBO and OMB. The Foster Care program was also subject to a limited sequester of 1.2 percent and 1.3 percent for the Adoption Assistance Program. This was less than the 4.3 percent sequester generally provided for in the President's order because of the limitation contained in the special rule.

In other programs, sequestration highlighted the difficulties of failing to ignore distinctions among mandatory programs. One example was GRH's sequestration of the Government Payment for Annuitants, Employees Health Benefits Program. Of the $1.6 billion budget authority, 4.3

[4] Even for those entitlements for which annual appropriations are provided, actual outlays are driven by the underlying statutes. Therefore, the appropriations committees are held harmless for actual spending in these programs.

percent—or $69 million—was sequestered. However, program outlays were not affected because the fund's reserve was drawn down to compensate for the fiscal year 1986 sequester action. Hence, this sequestration had no effect on fiscal year 1986 outlays.[5]

In the final analysis, sequesters fell most heavily on nonexempted, annually-appropriated programs. Although mandatory programs contributed to the deficit, under GRH—because of these programs' exempted status—some executive branch agencies were not required to take any actions in these programs towards deficit reduction.

The Budget Enforcement Act Formalized the Distinctions Between Mandatory and Discretionary Spending

In 1990—when the deficit was $221 billion—the Congress amended GRH with BEA. BEA abandoned GRH's focus on deficit outcomes and shifted to spending limitations designed to produce about $500 billion in deficit reduction over 5 years. To accomplish its goals, the law formalized the distinction between mandatory and discretionary spending. Recognizing the difference in how funds are provided for discretionary and mandatory programs, BEA provided separate controls for discretionary spending and mandatory spending. All accounts had to be classified as discretionary (controlled by caps) or mandatory (controlled by PAYGO) for scoring purposes. Therefore, although not all programs fit neatly into one category, the conference report contained lists of discretionary programs and of appropriated entitlements which were to be treated as mandatory.[6]

Discretionary Spending Is Capped and Annually Appropriated

Discretionary spending is subject to fixed-dollar caps[7] that are implemented through the budget and appropriations processes. Congressional budget resolutions[8] set totals by budget function and accompanying statements to the conference reports allocate funds to the appropriations committees for discretionary programs. House and Senate appropriations committees subsequently allocate these totals among their subcommittees. OMB keeps score of spending by tracking congressional actions and the Congress has established spending levels in the congressional budget resolution. Should appropriations breach—that is, exceed—the discretionary cap, BEA provides for eliminating the overage

[5] See Implementing FY 1986 Reductions: Balanced Budget and Emergency Deficit Control Act of 1985 (GAO/OCG-86-3 June 30, 1986).

[6] Despite this, OMB and CBO have occasionally differed in their interpretations of mandatory and discretionary spending. GAO compliance reports, required by the BEA, have noted some of these discrepancies. The most recent such compliance report is Budget Issues: Compliance Report Required by the Budget Enforcement Act of 1990 (GAO/AIMD-94-66 January 10, 1994).

[7] BEA requires the President to adjust these caps for specific reasons, including changes in concepts and definitions and designated emergencies.

[8] The congressional budget resolution is not a law. It is not signed by the President.

through the sequestration of discretionary spending. Policymakers vote annually on these discretionary program appropriations and their implications for future authority and outlays are known. Moreover, appropriated spending is subject to Antideficiency Act requirements.[9] In administering discretionary programs, agencies may not exceed available appropriations.

Mandatory Spending Is Subject to Reconciliation and PAYGO

In contrast, most mandatory spending is governed by eligibility rules and benefit formulas. Spending occurs as required for those who are eligible and wish to participate. Thus, unforeseen events—such as changes in the economy, additional demand for services, or other increases in spending—can translate into unanticipated additional program outlays.

Nevertheless, the budget process includes methods of controlling mandatory spending even though it is not subject to annual appropriations or spending caps. Since the passage of the 1974 Congressional Budget Act, the Congress has established spending levels in the congressional budget resolution. Reconciliation has provided one way of controlling spending in existing mandatory programs. If the budget resolution calls for reductions in mandatory spending or increases in revenues reconciliation instructions direct one or more committees to report substantive legislation to bring spending or revenues into conformity with the budget resolution. In reconciliation, the Congress votes on program changes. The anticipated budgetary impacts of these changes are estimated by CBO using the economic and technical assumptions found in the budget resolution. Since 1980, 11 such bills have been enacted, focusing primarily on mandatory spending and revenues. Table 1.1 lists enacted reconciliation legislation and the anticipated savings estimated by each law.

[9] The Antideficiency Act includes prohibitions on incurring obligations in advance of appropriation or making expenditures (outlays) in excess of amounts available in appropriation or fund accounts unless specifically authorized by law or incurring an obligation of funds required to be sequestered.

Table 1.1: Reconciliation Bills

Congress	Reconciliation bill number	Public Law	Conference report no.	Anticipated savings[a] (dollars in billions)
96th, 1979-80, 2d session	H.R. 7765	96-499	96-1479	$8.2
97th, 1981-82, 1st session	H.R. 3982	97-35	97-208	$130.6 over fiscal 1982-84
2d session	H.R. 6955	97-253	97-759	$129.1 over fiscal 1983-85[b]
	H.R. 4961 (TEFRA)	97-248	97-760	
98th, 1983-84, 2d session	H.R. 4169	98-270	None[c]	$8.2 over fiscal 1984-87
99th, 1985-86, 2d session	H.R.3128[d]	99-272	99-453	$18.2 over fiscal 1986-88
	H.R. 5300	99-509	99-1012	$11.7 over fiscal 1987-89
100th, 1987-88, 1st session	H.R. 3545	100-203	100-495	$39.6 over fiscal 1988-89
101st, 1989-90, 1st session	H.R. 3299	101-239	101-386	$14.7 over fiscal 1990
2d session	H.R. 5835	101-508	101-964	$236 over 5 years
103rd, 1993-94, 1st session	H.R. 2264	103-66	103-213	$394 over 5 years

[a] Reconciliation savings that are assumed or anticipated are associated with mandatory spending and revenues. These numbers do not reflect savings attributed to discretionary spending.

[b] This reflects $13.3 billion in spending cuts from H.R. 6955. In addition, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) contained $98.3 billion in increased revenues and cuts of $17.5 billion.

[c] No conference was held.

[d] H.R. 3128, "The Deficit Reduction Amendments of 1985," failed to clear the Congress by adjournment. It was enacted the following session as a reconciliation measure.

Sources: Congressional Quarterly Almanac, 1979-1990, and Calendars of the United States House of Representatives and History of Legislation, 103rd Congress, Interim I.

The BEA placed mandatory spending and revenue legislation into a single PAYGO-controlled category and required that legislation in this category be deficit-neutral. This means that in the aggregate PAYGO-controlled legislation must not increase the deficit. Any new program or policy expansion of an existing mandatory program or any tax cut requires offsetting revenue increases[10] or spending reductions in other PAYGO-controlled legislation affecting aggregate deficit changes for 2 fiscal years. OMB keeps a PAYGO spending scorecard, and deficit-neutrality can be enforced through sequestration.

A PAYGO sequestration of direct spending programs is triggered if legislative changes to revenues or direct spending result in a net deficit increase. The size of the sequester is determined by adding the impact of legislative changes on the current year's deficit to the portion of the preceding year's deficit that was not offset by an earlier sequestration. This "look-back" into the preceding year discourages passage of legislation that increases the deficit after a sequestration report is issued. There has never been a PAYGO sequester under BEA. Although net interest is a mandatory account, it is exempt from the PAYGO process.[11] Moreover, Social Security is exempt from sequestration and subject to its own spending limitations.

Mandatory Spending Controls Are Less Direct Than Discretionary

Controls placed on mandatory spending are less direct—and less exacting—than those for discretionary caps. Whereas discretionary caps seek to limit program spending, PAYGO accepts the existing structures of mandatory programs and aims merely to stop expansions. Thus, PAYGO was not designed to restrain the growth in existing mandatory spending resulting from increases in beneficiaries, service utilization, or other factors increasing costs. As a result, nondefense discretionary spending from 1991 through 1993 grew at an average annual real rate of 5.3 percent. In contrast, mandatory spending grew at a real rate of 11.6 percent over the same period.

Unlike the discretionary process, a PAYGO sequestration does not affect all areas of the direct spending category. For example, a tax cut that is not offset by mandatory spending cuts or tax increases would trigger a sequestration of mandatory spending—not a tax increase. And, as under GRH, the largest share of mandatory spending is exempt from PAYGO sequesters.

[10] Increases in revenues include reductions in revenue losses from existing tax expenditures.

[11] Since interest payments are a function of the size of the debt—which in turn is affected by the deficit/surplus—and interest rates, the Congress can control interest payments only indirectly by its actions on spending and revenue totals.

New Budget Tools to Control Mandatory Spending

Recently, controlling mandatory spending has been the subject of a change in internal House rules, a Presidential order, a Joint Committee Report, and numerous other proposals. The House-passed version of the 1993 Omnibus Budget Reconciliation Act (OBRA) proposed establishing targets for direct spending programs. Although this provision was dropped in conference,[12] it resulted in the issuance of Executive Order 12857 (August 4, 1993) and a change in House rules. The order, patterned after the House provisions in OBRA 1993, sets the mandatory spending targets at the current policy estimates.[13] The Office of Management and Budget (OMB) is required to identify and monitor current-policy estimates—or targets—of mandatory spending (excluding deposit insurance and net interest). With each annual budget submission, the President must then compare actual spending against these targets and—in the case of an overage—propose spending cuts and/or tax increases to make up the difference. Or, the President must provide a rationale why no or only limited action should be taken. The House has adopted rules that provide for expedited consideration of the President's proposals in that chamber.[14] For the fiscal year 1995 budget, OMB estimated that spending would not exceed targets, and a presidential message was not required.

The issuance of the House Report and Executive Order, as well as the change in House rules, highlight a growing interest in whether new budget tools could control mandatory spending.[15] Among the tools most discussed—and proposed—are mandatory spending caps enforced by sequesters if mandatory program spending exceeds the caps. Such caps are intended to fill the gap in current budgetary controls by limiting spending for existing mandatory programs.[16] But, a mandatory spending cap has never been applied on a systematic basis. Supporters argue that a

[12] In the conference, House conferees agreed to recede to the Senate based on their understanding that (1) inclusion would result in a point of order in the Senate, thereby endangering final enactment of OBRA 1993, and (2) the President would establish by Executive Order a mechanism for monitoring entitlement outlays and making recommendations to address overages.

[13] The current policy baseline is an estimate of spending, revenues, and deficit/surplus assuming continuation of current policy—that is, current law adjusted for inflation (including certain program-specific inflation) and population.

[14] The Entitlement Control Act of 1994 (H.R. 4593), introduced on June 16, 1994, contains many of the same provisions as the initial House version for OBRA 1993 and the Executive Order.

[15] The Final Report of the House Members of the Joint Committee on the Organization of Congress is also instructive. It recommends actions similar to the House proposal and the Executive Order, as well as requiring the Congress to respond to the administration's recommendations in the budget resolution.

[16] Chapter 3 presents a more detailed analysis of the recent proposals to cap mandatory spending as well as the representative cap devised for this report.

cap would enforce deficit reduction agreements and promote accountability. Further, they believe that the prospect of a sequester would prompt the Congress to enact legislative reforms in order to avoid breaches in allowable spending. Opponents maintain that a cap would be difficult to implement. Moreover, they contend that because a spending cap would encounter many implementation problems, placing a cap on mandatory spending would not result in the savings originally promised.

Objectives, Scope, and Methodology

The objectives of this study were to (1) identify the accounts and activities that currently comprise mandatory spending and review their recent growth, (2) examine recent cap proposals to understand issues policymakers would face, (3) identify differences in the ways that mandatory programs are designed and financed, and (4) analyze how these differences affect prospects for achieving any specified level of savings from a cap similar to the ones that recently have been proposed.

To accomplish our objectives, we used Budget Preparation System (BPS) 1995 budget year data to inventory mandatory spending accounts. We located 436 accounts and categorized these from a budget perspective. We identified 11[17] mandatory spending programs with projected annual growth rates greater than 3.5 percent. These programs represented over 90 percent of actual mandatory spending in fiscal year 1993. A short description of these programs and their growth rates is in appendix I.

To examine recent proposals and determine issues policymakers face in designing a mandatory cap, we examined legislative histories of deficit reduction legislation and other budgetary studies. We then identified characteristics common to recent mandatory cap proposals, and incorporated them into a representative cap that we could apply to the 11 mandatory programs. The process used to develop the representative cap we used in our analysis and its relationship to recent cap proposals are detailed in chapter 3.

To identify the implementation issues that would be likely to arise when mandatory programs are capped, we conducted literature reviews and consulted with government officials including OMB staff. We also spoke with state and other experts familiar with the operations and administration of the 11 programs. We gathered information on how each

[17] Because of differences in function and administration, agency officials recommended separating the two components of Social Security—the Disability Insurance (DI) and the Old Age and Survivor's Insurance (OASI) programs. Thus, because a cap might affect OASI and DI differently, we counted them as two separate programs.

program was addressed under Gramm-Rudman-Hollings and the Budget Enforcement Act. Based on this analysis, we compiled a list of program features that reflected key design and financing characteristics of mandatory programs. We then devised a survey instrument to measure each of the mandatory programs against the features we identified.

To determine how program operations and savings are likely to be affected and whether effects are uniform, we convened panels of agency officials who had program, legal, and budget expertise in the 11 programs. We used our survey instrument in conjunction with the representative cap to ascertain agency views regarding the likely implementation effects of a spending cap. Panels were asked to reach consensus and, where that was not possible, to note any areas of disagreement. We compiled and analyzed the survey results and compared agency responses to the results of our literature and legislative reviews, as well as against GAO and other experts' assessments. We also used these results to examine other mandatory spending accounts we had identified to understand the extent to which findings from our programs could be generalized.

A mandatory cap has never been applied on a systematic basis; therefore, our analysis was necessarily prospective. This is important because predicting what would happen if a cap on mandatory spending were imposed is inherently more difficult than looking back to ascertain its consequences. Our analysis is limited to an examination of the issues agencies would face if they were to implement a cap that is representative of the mandatory caps that thus far have been proposed. In particular, we looked at the budgetary consequences of the representative cap under the assumption that it had triggered a sequester of mandatory spending. Thus, we did not examine a cap's potential to prompt legislative changes to preempt such a sequester. Nor did we examine the programmatic consequences of a spending cap. Instead, chapter 3 highlights some key considerations in structuring a cap, recognizing design issues that can affect program outcomes. In chapter 4, we identify overall features that—regardless of any specific cap design—affect the ability to achieve expected savings from a cap on mandatory spending.

During the course of our work, we interviewed cognizant Department of Defense (DOD), Office of Personnel Management (OPM), Internal Revenue Service (IRS), Department of the Treasury, Department of Agriculture, OMB, and Department of Health and Human Services (HHS) officials. Our work was conducted in Washington, D.C., from March 1993 through June 1994. At the end of our fieldwork, we discussed with officials of executive branch agencies the facts in the report that describe their agencies' mandatory programs and how a cap would affect their programs. We also discussed the facts, conclusions, and matter for congressional consideration with Congressional Budget Office (CBO) staff, who generally concurred with our analysis of the implementation problems in capping mandatory programs. We also discussed these items with OMB staff. We have incorporated their views, along with those of the executive branch agencies, where appropriate.

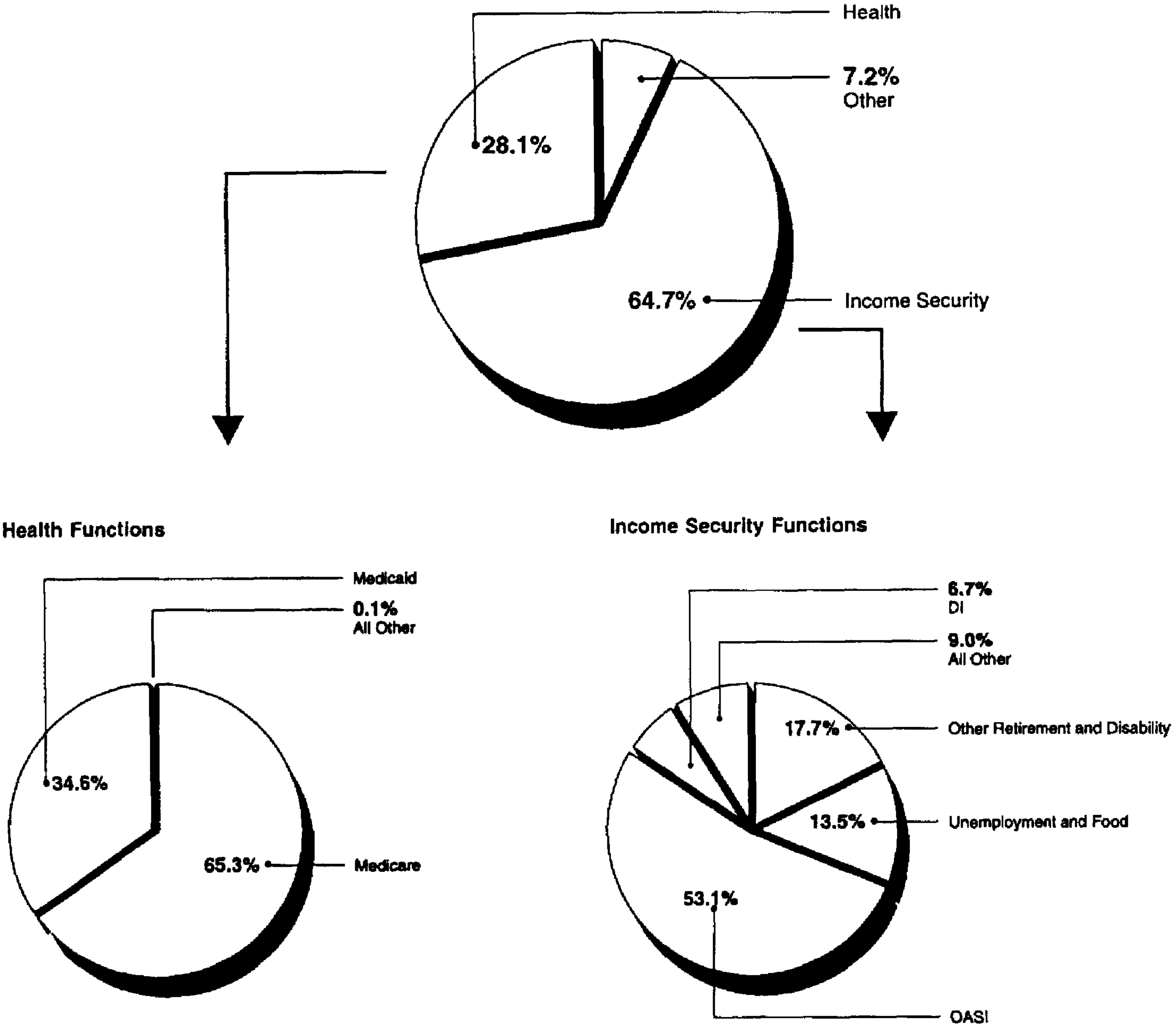
A Budget Perspective on Mandatory Spending

We identified 436 mandatory accounts with fiscal year 1993 actual outlays from the President's 1995 budget and list them in appendix II. An examination of these accounts shows that almost all mandatory spending provides income security or health services. It also shows that cash payments either directly to beneficiaries or to service providers are the primary means by which most beneficiaries receive mandatory benefits. And, despite a wide variety of programs offered, most spending is contained in a few large accounts.

Most Mandatory Spending Provides Income Security and Health Services

As figure 2.1 illustrates, more than 92 percent of fiscal year 1993 mandatory net outlays went to deliver income security and health care. The remainder provided a variety of veterans benefits and services, foreign military sales, foster care, education, and other activities.

Figure 2.1: Share of Mandatory Net Outlays, Fiscal Year 1993 by Budget Function



Health Functions

Income Security Functions

Income security programs made up the largest single category, totaling almost 65 percent of all mandatory net outlays. Broken down by the income security category, Social Security—which includes the Old-Age and Survivors Insurance (OASI) and the Disability Insurance (DI) programs—was the largest (60 percent). After that, civil service, military, and railroad retirement and certain disability programs for low income and other special populations constituted 18 percent. Unemployment compensation and food and nutrition services totaled another 14 percent, and the remaining 9 percent includes Aid to Families with Dependent Children (AFDC), SSI, and the EITC.

Within the category of health care, two programs—Medicare and Medicaid—accounted for 99.9 percent of spending. Medicare, which provides health insurance benefits to America's elderly and eligible disabled populations, was the larger at 65 percent. Medicaid—which serves low income elderly persons, disabled persons, or families with dependent children through federal grants to states—accounted for almost 35 percent of health spending.

The Federal Government Provides Mandatory Benefits in Three Ways

Although the federal government uses three means—cash benefits, provider payments, and federal services—to provide mandatory benefits, cash benefits and provider payments accounted for most spending.[1] Cash benefits totaled 65 percent of all mandatory net outlays. These programs include well-known activities such as Social Security and federal retirement programs. They also include lesser known activities providing cash assistance to states, foreign countries, and U.S. territories. Provider payments, wherein the federal government pays states and other governments, insurance carriers, schools, and other entities to provide programs such as Medicare, Medicaid, food stamps, and foster care, constitute another 33 percent.

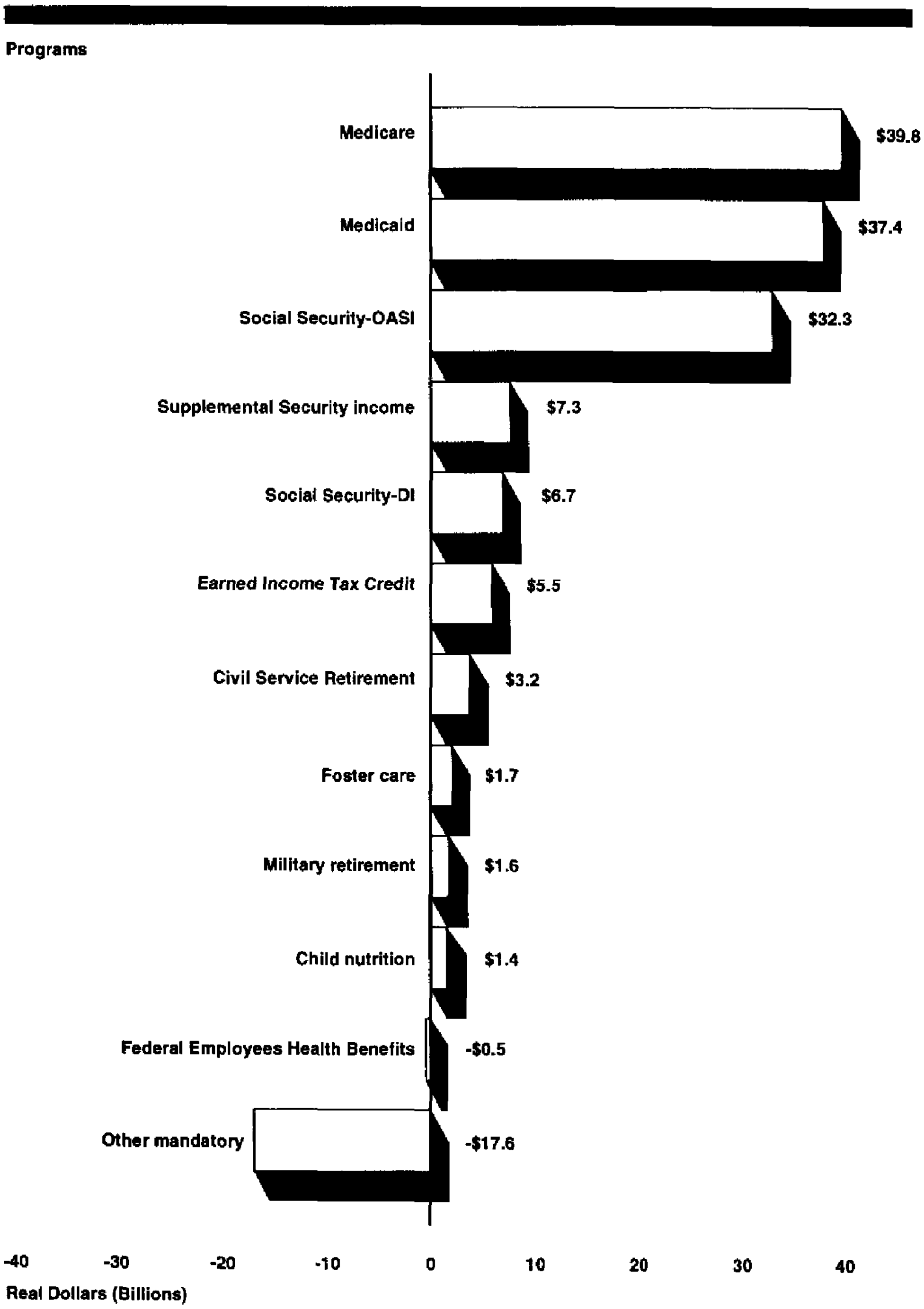
In the remaining 2 percent of mandatory net outlays, the federal government operated as a service provider. Federal enterprise funds, oversight activities, and revolving and management funds amounted to 2 percent of mandatory spending. The net outlays for this category were small because many of these accounts are revolving funds which offset their costs through collections from operations.

[1] A fourth category—gifts and donations received by the federal government—totalled $260 million, or less than .1 percent of fiscal year 1993 net outlays.

Most Mandatory Spending and Growth Occurred in a Few Programs, but Some Grew Faster Than Others

The 11 programs we selected for analysis constitute the majority of mandatory spending, totaling 91 percent of fiscal year 1993 mandatory net outlays. As shown in figure 2.2, they also account for most of the growth. Together, the 11 had real dollar increases of $136 billion over the past decade. In contrast, all other mandatory spending declined by $18 billion in real dollars. Three of the eleven programs—Medicare, Medicaid, and OASI—accounted for $109 billion or nearly 80 percent of the real dollar spending growth.

Figure 2.2: Spending Changes in Real Dollars for Major Mandatory Programs, Fiscal Years 1983-1993



Real dollars help to compare changes in spending among programs over time, while average annual growth in real dollars demonstrates differences in the rate at which these changes occur. However, large differences in real dollars do not necessarily mean dramatic program growth. To illustrate, OASI experienced a real dollar increase of $32.3 billion from fiscal year 1983 to 1993, translating into an average annual growth rate of 1.7 percent for the same period as shown in figure 2.3.[2] For comparison purposes, figure 2.4 shows actual net outlays for fiscal year 1993. Conversely, while the Foster Care program grew only $1.7 billion in real dollars, this represented an average annual growth of over 16 percent.

[2] Because the Federal Employee Health Benefits Program (FEHBP) had both positive and negative net outlays, its compound annual growth rate could not be calculated separately. Therefore, it is included in the "Other Mandatory" category of programs.

Figure 2.3: Average Annual Real Growth Rate in Mandatory Programs, Fiscal Years 1983-1993

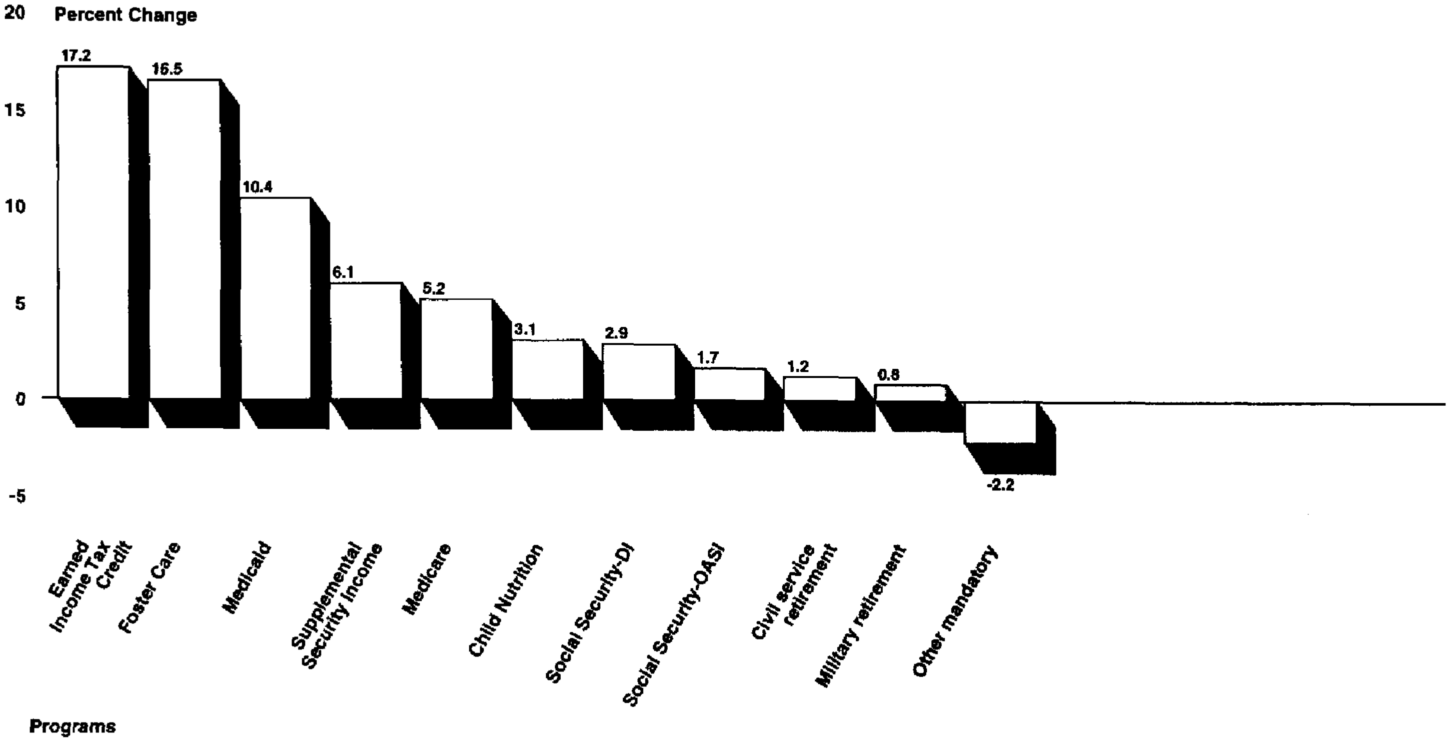
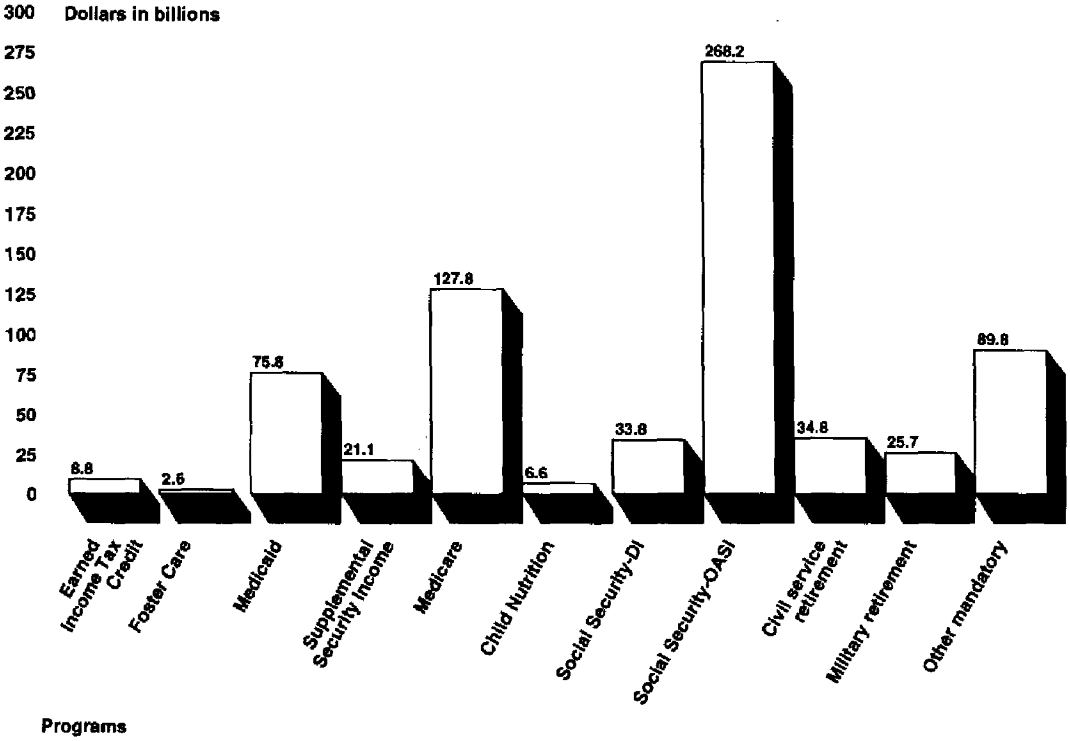


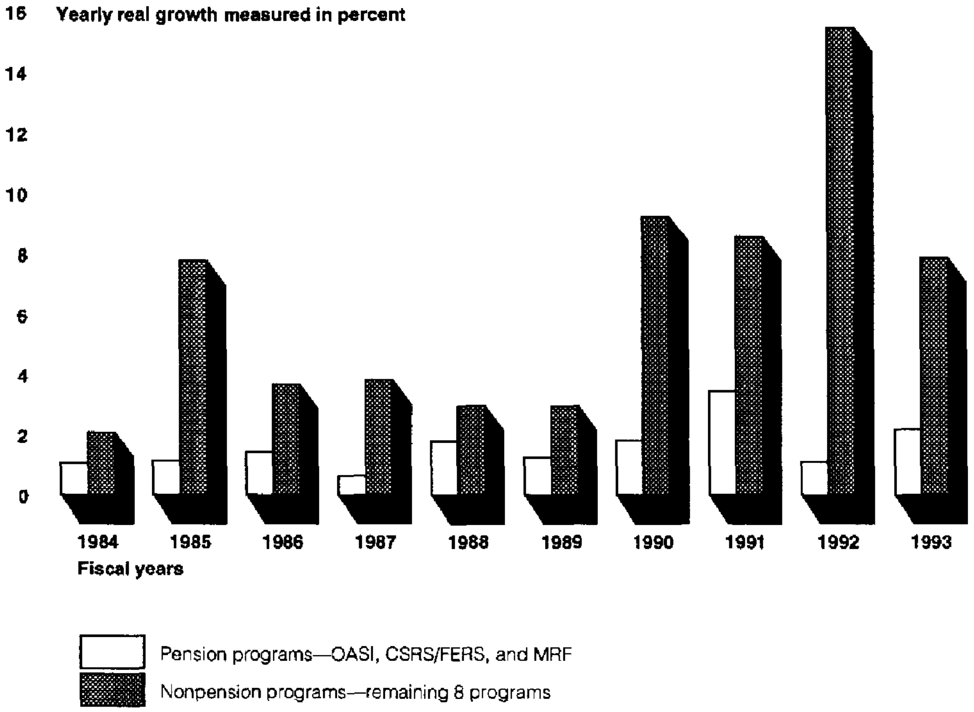
Figure 2.4: Actual Net Outlays in Real Dollars for Mandatory Programs, Fiscal Year 1993



Most proposals to cap mandatory spending address rates of growth, not real dollar increases. And, real dollar average annual growth rates varied among the 11 programs. In particular, three pension programs—OASI, civil service, and military retirement—combined grew at a significantly slower rate than the remaining eight. Figure 2.5 shows that from 1983 through 1993, together these programs rarely exceeded a growth rate of 2 percent. In comparison, all other programs ranged from 2 to 15 percent, displaying highly variable rates of growth. For example, Medicaid grew sporadically, peaking at 25 percent.[3] Foster care rates were even less patterned, ranging from -3 to 54 percent over the same period.

[3] Whether measuring changes in growth rates or real dollars, health programs had a significant budgetary impact on mandatory spending. From 1983 through 1993, Medicaid and Medicare had real dollar increases of over $77 billion and grew at a real average annual rate of 10.4 percent and 6.3 percent, respectively. CBO estimates that spending for Medicare and Medicaid is expected to grow at 10 percent or more over the next 5 years.

Figure 2.5: Growth of Pension and Nonpension Programs



Chapter 3

Designing a Mandatory Cap

To establish a cap on mandatory spending, policymakers must (1) determine an allowable amount of spending, (2) provide for a means of enforcement, and (3) either specify the program changes to be made if spending must be limited or delegate the responsibility to make those determinations. The nature of mandatory programs will make some of these tasks more difficult in the case of mandatory caps than discretionary caps.

This chapter describes the key features of three mandatory cap proposals that have received substantial attention recently. It also summarizes the legal issues raised in the design of any cap. These are discussed in more detail in appendix III. Finally, it describes the representative cap used in our analysis.

Most Recent Cap Proposals Are Similar in Key Areas

The mandatory cap proposals that we examined differ in their specific details. However, the proposals all set spending limits, specify the opportunity to enact program changes to reduce spending, and provide for a sequester as a final means of enforcement. Table 3.1 notes the key features of these recent proposals.

Table 3.1: Key Features of Recent Mandatory Cap Proposals

The CSIS Strengthening of America Commission (Center for Strategic and International Studies, 1992)
• Previous year spending adjusted for inflation and changes in the beneficiary population
• Increased spending allowances for initial years (not specified further)
• Option to enact reconciliation to avoid sequesters
• Either targeted or across-the-board sequesters
Options for Implementing the Mandatory Cap (Fiscal year 1993 budget)
• Previous year spending adjusted for inflation and changes in the beneficiary population
• Specific additional spending allowances phased down over the first 2 years
• Option to enact reconciliation to avoid sequesters
• Across-the-board sequesters
The Entitlement Control Act of 1994 (H.R. 4593)
• Previous year spending adjusted for inflation and changes in the beneficiary population
• Increased spending allowances for the first 4 years
• "Spin-off" legislation which specifies the budget year amount of direct spending allowed
• Targeted or across-the-board sequesters, depending on status of spin-off legislation

Proposed Caps Use Formulas to Calculate Allowable Spending for Individual Programs

For each proposal, the formula includes adjustments for changes in the number of program beneficiaries and inflation. We did not find any instances in which who counted as beneficiaries was explicitly defined for calculation purposes, but inflation adjustments usually were based on the Consumer Price Index (CPI).[1] The three proposals allow other adjustments to cushion the immediate budgetary impact of a cap, such as additional percentage increases in allowable spending which are eventually phased out. One proposal also contains an explicit provision permitting the Congress to raise the cap limits—as an alternative to immediately facing the prospects of either changing programs or allowing the cap's enforcement mechanism to go into effect. In two cases, cap levels are first

[1] This inflation rate is markedly different from some which are currently used to estimate more specialized areas of spending, notably health care. For example CBO estimates of Medicare and Medicaid outlays use the "hospital market basket cost index" as an inflation factor because Medicare and Medicaid outlays are increasing substantially faster than the CPI rate.

approximated through the use of estimates and then compared against actual spending for the purposes of sequestration.

Recent Proposals Specify Use of the Reconciliation Process as a Way to Prevent Sequesters

All three proposals specifically provide an opportunity to legislate changes in mandatory programs as a way to bring spending down prior to cap enforcement going into effect. In particular, the proposals use reconciliation as a means of addressing the underlying causes of rising mandatory program costs to avoid sequestration. Such opportunities are important provisions in the mandatory cap proposals, but they do not make the analysis of the enforcement mechanism—a sequester—irrelevant. A sequester could be required either because (1) a reconciliation bill was not passed or (2) actual spending was higher than permitted by the cap, despite the adoption of reconciliation or other "spin-off" bills.[2]

Most Proposed Caps Use Sequestration to Enforce Spending Limits

All three recent proposals to cap mandatory spending rely on sequestration as a final means of ensuring that spending stays within the cap. Two proposals would sequester mandatory programs across-the-board or would target specific programs or budget functions. The third proposal would simply sequester programs across the board. Also, one proposal provides instructions on how to reduce program spending, while two do not. These two proposals would delegate the congressional authority to determine what program changes should be taken to implement a sequester.

As noted in chapter 1, sequestration is a way to cancel budgetary resources but does not address the programmatic aspects that drive spending. Lookback sequesters, such as those included in recent proposals, sequester funds in the next fiscal year. The amount of the sequester is the amount necessary to offset spending that exceeded cap limits in the prior fiscal year. Lookback sequesters are based on information about actual spending, irrespective of spending estimates or projections. In this way, lookback sequesters compensate for overages in mandatory spending that only become apparent at or near the end of the current fiscal year. (As stated in chapter 1, PAYGO sequesters also take effect in the next fiscal year.)

[2] A spin-off bill is a subsection of the budget resolution which is required to be introduced by the budget committees subsequent to the passage of the resolution in accordance with a statutory deadline.

Legal Issues Raised by a Mandatory Spending Cap

Proposals to cap mandatory spending programs raise two fundamental legal questions: (1) whether the Congress has the authority to cap such spending and (2) whether the Congress can delegate its authority to implement its decisions. Although legal challenges may arise, given the nature of the programs and the number of individuals affected, a carefully crafted and administered mandatory spending cap modifying the underlying statutory entitlement to benefits should survive legal challenges.

As noted in appendix III, the courts have upheld the right of the Congress to alter statutorily created entitlements. This could occur in a number of ways as long as the legislation enacting the cap evidences an intention to modify program benefits in accordance with reduced funding levels. In delegating the authority to implement a cap, the Congress could specify how spending is to be reduced in the event of a breach, in which case agencies would interpret and administer congressional instructions. Alternatively, the Congress might shift some of the authority to make programmatic determinations to agencies within a more broadly articulated policy or standard. Agencies would then have some discretion to select as well as administer the program changes to reduce spending by the required amounts. As discussed in appendix III, as long as the Congress provides a standard to govern agency implementation, delegations of legislative power survive constitutional challenge.

Representative Cap Characteristics and Underlying Assumptions

To address the implementation issues raised by recent mandatory cap proposals, we designed a representative cap modeled after these recent proposals. Most importantly, under the representative cap, mandatory spending in each program is limited to prior year spending adjusted for inflation (measured by the CPI) and number of beneficiaries. It is enforced through a lookback sequester of the type used in recent proposals. We began our analysis at the final point of cap enforcement—when a sequester is necessary and when agency implementation begins.

Focusing on agency implementation reduced the importance of deciding whether cap overages would be calculated on the basis of total mandatory spending or on the basis of individual programs. However, whether or not each mandatory program is made to share the burden of trends in total mandatory spending is an important question for the Congress because—as our analysis in chapter 2 shows—mandatory spending comprises a wide variety of budgetary accounts and programs that are growing at very different rates. Nevertheless, the question did not need to be resolved for our analysis because however a breach might be triggered, each program will face cuts in spending.[3]

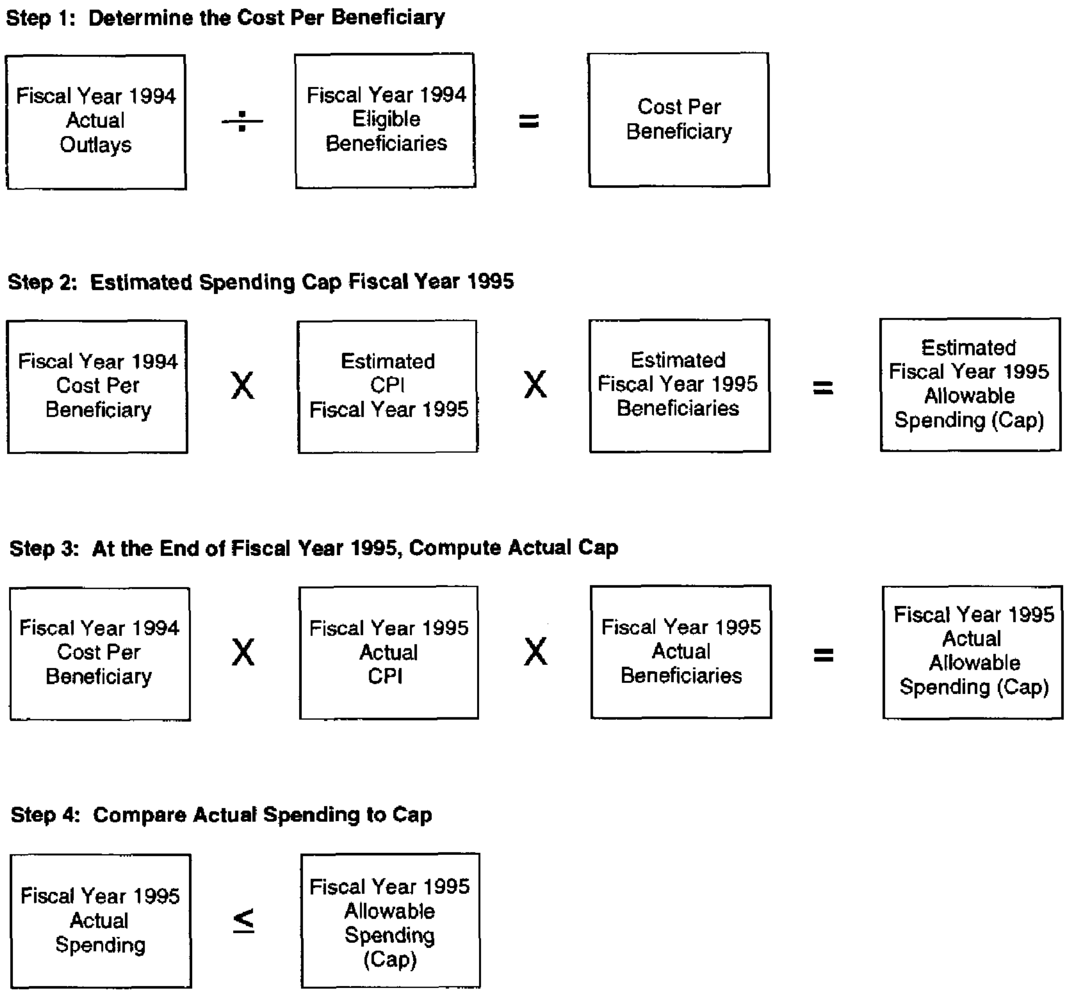
We made no assumptions about what programs might be exempted from sequestration or what special rules the Congress might enact. The representative cap provides none since the purpose of our analysis was to examine what would happen in the event of a breach. Although the Congress may ultimately specify rules and policy constraints to guide sequestration, for the purposes of our analysis we did not speculate on the content of such guidance other than that the Congress would authorize agencies to modify programs to implement the cap. Moreover, assuming any given set of instructions would narrow the scope of our analysis, detracting from what we believe are useful findings bearing on any cap the Congress might legislate. Therefore, under the representative cap in the event of a breach, a sequester occurs after the end of the fiscal year and agencies are authorized to implement the program changes necessary to recoup spending.

Much of our analysis would hold even if the Congress chose to dictate the steps (for example, reductions in reimbursements or in benefits) agencies should use to comply with a sequester. As chapter 4 demonstrates, the issues that would make it hard for agencies to implement the representative cap would continue to cause agencies problems under any cap—no matter what sequestration instructions the Congress might enact.

Following the model of most recent proposals, the representative cap limits mandatory spending to prior-year levels with adjustments for inflation and changes in beneficiary population. As figure 3.1 shows, calculating fiscal year 1995 allowable spending begins by taking fiscal year 1994 actual mandatory outlays divided by the number of beneficiaries for the same year. The result yields a cost per beneficiary. This cost is increased to allow for inflation and multiplied by the number of fiscal year 1995 actual beneficiaries, yielding an allowable amount of fiscal year 1995 spending—the cap. Fiscal year 1995 actual outlays are then compared to the results of the cap formula. If actual outlays exceed the cap, there is a sequesterable overage in spending.

[3] It is worth noting, however, that even on a program-by-program basis 10 of the 11 programs would have breached the sample cap.

Figure 3.1: The Representative Cap Formula


Step 1: Determine the Cost Per Beneficiary
Fiscal Year 1994 Actual Outlays
÷
Fiscal Year 1994 Eligible Beneficiaries
=
Cost Per Beneficiary
Step 2: Estimated Spending Cap Fiscal Year 1995
Fiscal Year 1994 Cost Per Beneficiary
X
Estimated CPI Fiscal Year 1995
X
Estimated Fiscal Year 1995 Beneficiaries
=
Estimated Fiscal Year 1995 Allowable Spending (Cap)
Step 3: At the End of Fiscal Year 1995, Compute Actual Cap
Fiscal Year 1994 Cost Per Beneficiary
X
Fiscal Year 1995 Actual CPI
X
Fiscal Year 1995 Actual Beneficiaries
=
Fiscal Year 1995 Actual Allowable Spending (Cap)
Step 4: Compare Actual Spending to Cap
Fiscal Year 1995 Actual Spending
≤
Fiscal Year 1995 Allowable Spending (Cap)

Appendix I shows the estimated results of applying the representative cap to the 11 mandatory programs. Using readily attainable fiscal year 1990 and 1991 data[4], 10 of the 11 programs exceeded the representative cap. However, the magnitude of the overages varied. In some cases, similar breaches in spending represented a different proportion of a program's

[4] We used fiscal years 1990 and 1991 beneficiary data because these data were available to us within the time frames of our work.

total budget. For example, overages of $4 billion represented from 2 percent to 8 percent of total program outlays.

Calculating overages was not always straightforward because of problems we encountered in defining beneficiaries. For example, the Medicaid and Medicare programs could define beneficiaries either as individuals receiving services or as all those eligible for services. In the Child Nutrition program, other complications arise because beneficiaries receive different types of services depending upon their location and the programs offered. Most importantly, since meals are provided at three levels of reimbursement—free, reduced-price, and full-price—a decision must be made on how to treat these variations when counting beneficiaries. When we spoke with agency panels about applying a cap to their programs, we discovered that agencies also wondered how definitional issues would be resolved.

To the extent that issues of definitions are unresolved in statute, executive branch agencies would need to make their own determinations. How they would define—and so count—beneficiaries would affect estimates of allowable spending for programs. We found that using different beneficiary definitions made a modest difference in our calculations for the representative cap. For example, allowable spending decreased by about $30 million in Foster Care for each 2 percent reduction in the size of the sequester depending on the definition of beneficiaries that we used (see appendix I).

Implementing a Cap on Mandatory Programs

To implement the representative cap, agencies would need to select, then execute a package of program changes to bring spending within cap levels. This chapter discusses the issues agencies would face in planning, apportioning, and administering such changes in the event of a sequester.

Seven of the 11 panels reported difficulty in implementing a cap because of the ways in which their programs are designed and/or financed. Significantly, these seven programs are also the programs that would be the most affected because these programs would experience most of the larger sequesters in percentage terms. Past difficulties in accurately projecting mandatory spending would also pose problems for implementing a cap. Inaccurate spending projections make it more difficult for agencies to estimate both the size of a breach and the amount of spending reductions that must be taken to avoid future sequesters.

As policymakers weigh the significance of these implementation issues, it will be important to recognize that many of the agencies responsible for the mandatory programs included in our examination have been implementing policy changes and administrative reforms to reduce the costs of their programs for some time. The characteristics that we found to be important variables affecting cap implementation are the same features that have hampered agency efforts to reduce total program costs in the past. However, the success of agency efforts to recoup spending by reducing program costs will take on increased importance when a mandatory spending cap is in place. The stakes are higher because failure to reduce spending adequately in 1 year only adds to a program's spending problems in subsequent years.

Program Characteristics Affect Cap Implementation

The 11 programs differed on 5 dimensions that affect an agency's ability to recoup spending. Each of the following program characteristics—defined in table 4.1—potentially impinges on implementation: (1) how accurately eligibility can be predicted, (2) whether benefits are cash or noncash, (3) whether authority for implementing the program is shared with other entities or not (4) whether sources of financing are entirely federal or not,[1] and (5) the extent to which the program interacts with other benefit programs.

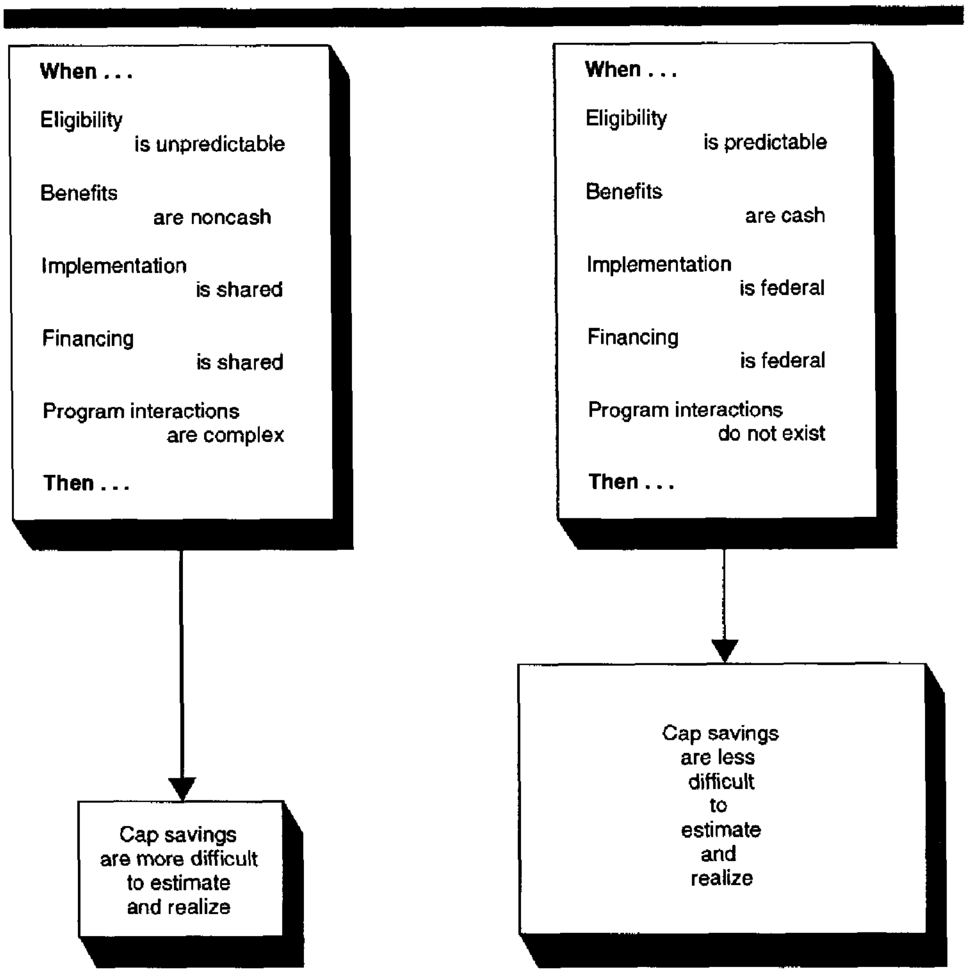
[1] When the federal government shares financing with individuals—such as copayments for pension benefits—implementation issues were less problematic.

Table 4.1: Characteristics Affecting Implementation of a Cap

Characteristic	Description
Ability to Predict Eligibility	The extent to which the number of beneficiaries and their use of services can be anticipated.
Cash Versus Noncash Benefits	The form in which beneficiaries receive their benefits.
Shared Authority for Implementation	The principal governments or other entities accountable for carrying out program objectives.
Sources of Financing	The primary sources of funds for the mandatory program.
Program Interactions	The extent to which changes in one program affect federal spending in another program.

Figure 4.1 summarizes how these characteristics hamper—or facilitate—agency efforts to recoup spending.

Figure 4.1: Implementation Features and Their Effect on Savings


When . . .
Eligibility is unpredictable
Benefits are noncash
Implementation is shared
Financing is shared
Program interactions are complex
Then . . .
Cap savings are more difficult to estimate and realize
When . . .
Eligibility is predictable
Benefits are cash
Implementation is federal
Financing is federal
Program interactions do not exist
Then . . .
Cap savings are less difficult to estimate and realize

Although characteristics cannot be weighted or added together to measure how difficult implementation will be, if a program has several problematic features, more difficulties can be expected. We found a clear pattern among the programs when we spoke with agency panels about each of the five characteristics. As the following discussion of these findings illustrates, the three pension programs included in our analysis had the lowest incidence of problematic features, while the five health and social services programs had no less than three problematic features each.

Ability to Predict Eligibility

Accurate information about program spending and estimates of expected savings from actions to reduce spending both depend on reasonably accurate information about program beneficiaries and services. Agencies that have difficulty anticipating the number of beneficiaries who will be served by their programs or the amount of services that will be required from fiscal year to fiscal year will also have difficulty anticipating the budgetary effect of a cap on their programs and implementing the cap in the event of a breach.

In contrast, agencies administering programs with predictable eligibility can project program spending and determine whether their current operations will exceed a cap. The budgetary results of any actions agencies take to recoup overages are less likely to match initial estimates than the results of actions in programs where eligibility is less difficult to predict. Panel members from 7 of the 11 mandatory programs found eligibility moderately or very difficult to predict, while 4 did not. The following examples illustrate both conditions.

- Determining eligibility for the DI program is a difficult process complicated by recent trends in program growth. Panelists stated that the vast majority of DI applications require a full investigation of an individual's physical and medical condition, work history, current earnings, and other criteria—currently a time-consuming and labor-intensive process. Since 1985, beneficiary rolls in the DI program have grown about 30 percent, or more than twice the growth of the insured population. While several reasons for this growth have been identified—such as higher unemployment and policy changes—quantitative data on their impact are lacking.[2] Because of the difficulty in predicting eligibility, estimating savings under a cap would be highly uncertain.
- In contrast, panels reporting minimal difficulty in predicting eligibility were able to establish highly accurate eligibility trends in their programs. For example, the OASI program uses actuarial predictions based on birth and death rates. Both their short-term and long-term demographic predictions have been largely accurate. Thus, the agency can anticipate the effects of a formula cap and take actions that would have highly predictable savings.

[2] For additional information describing the difficulties in quantifying DI increases, see Social Security: Disability Rolls Keep Growing, While Explanations Remain Elusive (GAO/HEHS-94-34 February 8, 1994).

Cash Versus Noncash Benefits

Noncash benefits—in which the federal government pays another entity to provide services—pose difficulties for estimating and realizing savings under a cap. Noncash benefits are unevenly distributed depending upon an individual's need for specific services. For example, 32 percent of 1990 Medicare recipients accounted for over $59 billion—or 90 percent—of the HI benefit payments. Cap implementation is more difficult when the use of services varies among beneficiaries, especially when utilization is increasing rapidly—as is true for health programs. A policy which goes into effect at one point in time might not produce the same amount of savings as at another point in time because service patterns are subject to fluctuations. Five programs provide noncash benefits and six programs disburse cash to eligible beneficiaries. The following examples illustrate how cash versus noncash benefits affects implementation.

- Medicaid and Medicare benefits consist of insurance coverage to qualified individuals who may or may not require health care services. Depending on the point in time, an eligible individual may submit a high amount of insurance claims—such as treatment for a heart attack or stroke—or, in periods of good health, hardly any claims at all. Similarly, Foster Care provides services to neglected or abused children; the needs of each child, however, range from one-time adoption costs to a full range of physical, emotional, educational, and social needs. This makes it hard to know how much a given change in policy will save. For example, eligibility reductions could affect an individual who uses a high level of services or one who uses hardly any at all. Furthermore, eliminating specific services—such as nursing home care—may shift demand to other higher cost areas within the same program, such as inpatient hospitalization. Medicaid panelists noted that service definitions are not always clearly defined. For example, providing various kinds of care for individuals diagnosed with Alzheimer's disease can be categorized as outpatient, acute, or even long-term care.
- In contrast, cash benefits are based upon established formulas. And, while they may not be uniform, they can be calculated. For example, in the civil service retirement system, cash benefits are based on a formula determined by an employee's salary and years of employment. Thus, reducing benefit levels achieves a calculable amount of savings. Likewise, adding eligibility restrictions—and calculating the resulting savings—could be accomplished with relative accuracy. Similarly, reducing the size of the cost of living adjustment (COLA) in a retirement program also achieves a calculable amount of savings, even when the initial level of benefits among participants varies.

Shared Program Responsibility

Shared program responsibilities—between the federal government and states, localities, and/or other entities and service providers—makes a cap more difficult to implement. Savings from a cap are particularly problematic when those in partnership with the federal government have other considerations and pressures that may preclude or lessen their ability to focus solely on reducing federal spending. In particular, if federal agencies make changes that affect administration or benefits and beneficiaries, states and other federal partners may take actions that are not consistent with federal objectives. Our work on cost estimation for reconciliation bills shows that one consequence of shared authority is that estimates of the budgetary impact of policy changes will always be less certain because the estimates rely on assumptions about the behavioral responses of other entities. These kinds of estimation problems directly reflect the loss of agency control over results when programs are administered as partnerships.

In contrast, implementing cost savings measures in programs that are wholly federally administered is more straightforward so savings are more certain. As the following examples illustrate, the six programs that share implementation with other entities face more implementation problems than the five programs that operate solely under federal authority.

- Foster Care panelists reasoned that state agencies would not likely support caps and might take measures to make implementation more difficult, thus possibly reducing federal savings. Their expectations were based upon past experience. For example, panelists likened cap enforcement to their current efforts to control state Foster Care administrative cost claims. Many state child welfare agencies conducted reviews of case records and established retroactive cost claims for eligible children. In spite of almost yearly federal efforts to reduce administrative costs, they continue to grow. Panel members asserted that similar uncertainties regarding state actions would arise under a spending cap. They expected a variety of unforeseen responses from the states in response to efforts to make programmatic or administrative reforms and were doubtful that federal actions would realize the amount of savings specified by a cap.
- In contrast, programs wholly implemented by the federal government did not have such potential complications. For example, actions taken to reduce federal employee pension program spending would be planned and administered by the federal government.

Shared Funding

When funding for mandatory programs is shared, there is no guarantee the federal government will receive its share of estimated savings from agency actions to reduce program costs. Mandatory program partnerships pool federal dollars with those of other entities—state and local governments, individuals, or a combination. Thus, imposing a cap on federal spending could affect program spending for the other funding partners. Implementation problems related to shared funding are likely to be especially significant if, in response to a cap, agencies attempt to shift a larger part of the federal share of program costs to other entities.

The dynamics involved in shared funding are similar to those in shared program responsibility. In fact, many mandatory program partnerships are also funding partnerships. As stated, programmatic issues arise when federal actions affecting program administration or benefits and beneficiaries conflict with the goals and objectives of program partners. Similarly, funding problems reflect the fact that entities are unlikely to willingly accept a change in their share of program costs, especially if federal policy relating to beneficiaries and benefit levels remains unchanged. To avoid shouldering new financial burdens, these entities may try to shift costs back to the federal government. Three programs are more likely to experience implementation problems related to shared funding. Five programs that operate solely with federal funds would experience fewer problems. The remaining three programs shared funding with individuals.

- In the past, Medicaid has encountered a variety of efforts by the states to shift costs and—when successful—these efforts did increase federal spending. For example, panelists cited the states' use of donated funds and provider-specific taxes as an instance in which states successfully shifted costs to the federal government. States received contributions from or assessed taxes on Medicaid providers and—in some cases—redistributed these receipts to hospitals through the disproportionate-share payment system. These disproportionate share payments are supplemental payments to hospitals serving a high proportion of low-income patients. Since Medicaid reimburses on the basis of gross costs, states were able to report a higher base of spending that the federal government was then required to match. Ultimately, the federal government paid a greater proportion of total Medicaid spending for these states; thus, health care costs were shifted onto the federal government.
- In contrast, programs solely financed by the federal government did not have to share savings. Thus, actions taken under a cap would only reduce federal outlays. For example, the federal government finances all of the

operations surrounding the Military Retirement Fund (MRF). Actions which successfully limit or reduce program spending—such as recent formula changes in the MRF benefit—will be certain to reduce federal spending.

Program Interactions

Interactions between programs—the extent to which changes in one program affect federal spending in another—can inhibit agencies' ability to estimate and realize savings. Many mandatory programs—particularly those which are means or income-tested—serve very similar beneficiary populations. Under these conditions, changes in one program can alter demand for another. Thus, estimates of cap savings and the ability to realize them are frustrated by offsetting or disproportionate program outcomes. Seven programs reported moderate to complex program interactions, while four identified their programs as operating on a "stand-alone basis."

- In the SSI program, each action taken potentially affects—or is affected by—spending in more than 10 other programs. For example, decreasing OASI would increase SSI benefits—or, decreasing SSI eligibility increases Food Stamps benefits. Although SSI spending would still be reduced, these shifts in benefits may not have a dollar-for-dollar effect, as a $3 decrease in SSI would increase Food Stamps by $1. Under these conditions, program savings are dependent upon the actions of other agencies or programs. Using one of the above examples, reductions in OASI benefits could thwart SSI efforts to reduce spending by increasing the amount of cash award for eligible recipients. And, overall federal savings from a mandatory cap would decrease, as efforts to limit spending may be unintentionally offsetting or disproportionate.
- In contrast, as the label implies, programs operating on a "stand-alone basis" noted that their actions and activities are largely unaffected by other programs. For example, panel members from the EITC stated that program benefits are not considered earned income when individuals apply for other income or means-tested programs. Changing EITC benefits in the event of a breach would not affect eligibility for Medicaid, AFDC, Foster Care, or other programs for low-income individuals. Thus, actions taken to reduce spending in the EITC will not directly affect outcomes for other programs.

Seven Faster-Growing Mandatory Programs Also Have the Highest Incidence of Difficult Program Characteristics

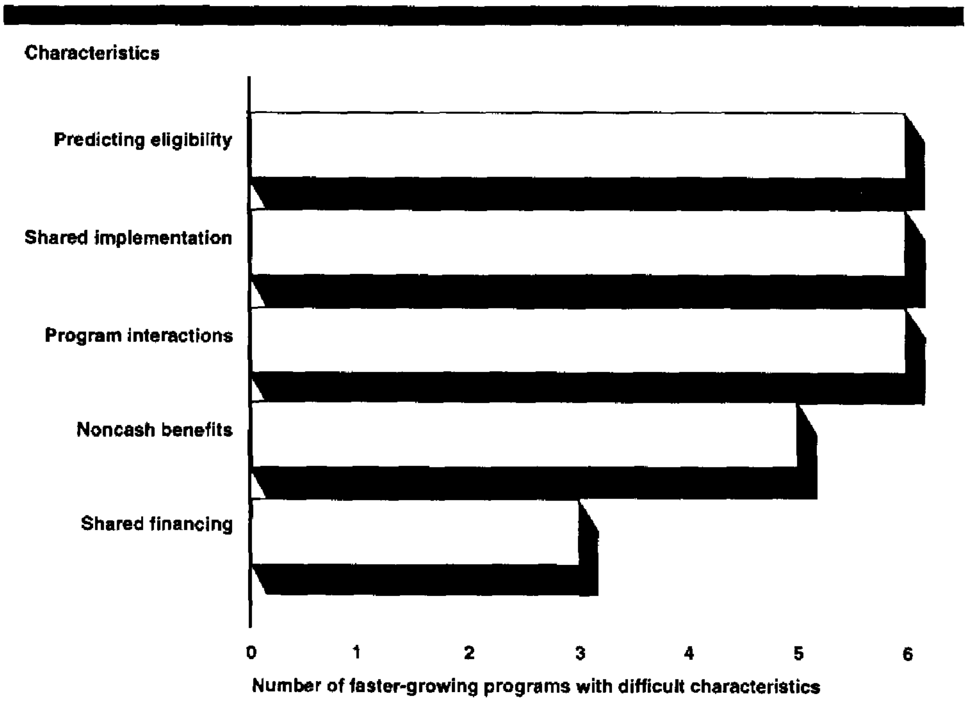
Seven of the eleven programs we studied are not only responsible for some of the highest growth rates in mandatory spending, they are also the least likely to recoup any specific amount of savings from a sequester. From 1983 through 1993, seven programs—Child Nutrition, DI, FEHBP, Foster Care, Medicaid, Medicare, and SSI—had a combined average annual real growth rate of 6.2 percent. Individually, annual growth rates in these programs also fluctuated, ranging from –7 to over 50 percent. Since most caps—including our representative cap—address rates of growth adjusted for population changes, they are the likely targets of spending reductions required under a cap.[3]

The seven programs with the largest expected overages also reported the highest incidence of program characteristics complicating cap implementation, as shown in figure 4.2.[4] Six of seven program panels identified difficulties predicting eligibility and benefit levels. Six anticipated problems because they shared responsibility for implementing program objectives; six panels also noted complex program interactions which hindered their ability to estimate and realize program savings. Five panels also expected obstacles related to noncash benefits and three programs shared financing.

[3] While these programs are the likely targets of caps, under certain conditions—such as growth entirely restricted to increases in beneficiaries and within inflationary limits—it is conceivable they would not exceed allowable spending under the sample cap.

[4] We counted programs with two or more difficult characteristics as having a high incidence of the five characteristics. In fact, SSI had two difficult characteristics; FEHBP and DI had three; Medicare and Child Nutrition had four; and Foster Care and Medicaid had five each.

Figure 4.2: Faster-Growing Mandatory Programs, Occurrence of Difficult Characteristics



In contrast, the remaining four programs we examined—pension programs and the EITC—reported the lowest incidence of program features interfering with cap implementation. Notably, pension program eligibility is easier to predict, and cash benefits are calculated through established formulas so spending can be estimated accurately. These programs are federally administered. Hence, no other entities are institutionally positioned to interfere with cap implementation. Program financing is either federal or jointly funded with federal and individual contributions. By reducing the potential for cost shifting, federal savings are more likely. And, pension programs reported few difficulties with program interactions, a situation in which savings in one program would increase spending in another.[5] Thus, the programs that would be easiest to cap will have—on a percentage basis—the smallest overages.[6]

[5] The Civil Service Retirement System panel rated interactions with other programs as creating moderate difficulties for capping.

[6] This is not to suggest that savings cannot be achieved from pension programs. For example, recouping a .5 percent breach in OASI could yield as much as $1.2 billion in savings.

Difficulties in Estimating Annual Outlays Increase the Likelihood of Future Sequesters

The implementation difficulties agency panels associated with predicting program eligibility and shared program responsibilities are part of a broader implementation problem—that of estimating and projecting mandatory program spending accurately.

As noted earlier in this report, trends in beneficiary populations and service use—the elements that define mandatory program eligibility—are important factors affecting mandatory program spending. In the open-ended funding environment of mandatory programs, these factors—along with changes in the cost of providing noncash program benefits—play a major role in the growth of mandatory programs.

Because mandatory programs are funded as required to meet the projected needs of those who are eligible and wish to participate, spending estimates rely heavily on assumptions about the budgetary impacts of beneficiary and provider behavior as well as assumptions about the actions of entities that share mandatory program responsibilities. While estimates take these factors into account, behavior can—and does—depart from original assumptions. Generally speaking, the greater the difference between assumptions and actual behavior, the greater the deviation in actual spending from original spending estimates.

Our analyses show that in both fiscal years 1992 and 1993, outlays for mandatory programs experienced the largest differences between the estimates made midway through the fiscal year and actual outlays.[7] In fact, the average difference, measured as a percent of the outlay estimate, was more than twice as large as the average difference for discretionary accounts.[8] OMB officials we spoke with reinforced the difficulty of estimating and projecting mandatory program spending. They noted that while spending projections are always uncertain, in the past 2 years, projections underestimated mandatory spending.[9]

Any differences between estimated and actual spending would have greater consequences if a cap that included a lookback at actual spending were to be placed on mandatory spending. Under a cap, if actual spending

[7] See Budget Issues: Fiscal Year 1993 Budget Estimates and Actual Results (GAO/AIMD-94-68, February 4, 1994).

[8] In contrast, this report noted that differences between estimates and actuals in discretionary accounts are often due to inadequate agency financial and information management systems. See Financial Management Issues (GAO/OCG-93-4TR, December 1992.)

[9] Estimates for fiscal year 1993 were too high as mandatory spending was not as high as originally estimated. This was primarily due to overestimates in deposit insurance, Medicaid, and net interest.

exceeds expected spending—as has recently been the case for mandatory programs—agencies would need to implement a sequester.

Estimation problems could affect agency implementation of a cap in a number of ways. First, agencies might find it hard to accurately estimate the budgetary impact of program changes they must make to avoid a sequester—since results often depend on the behavior of states, local governments, service providers, and other entities that share implementation responsibilities, as well as the behavior of beneficiaries. In fact, difficulties in anticipating these kinds of behavioral responses led the Child Nutrition panel to suggest they might need to reserve a portion of program funds in the early part of the fiscal year to compensate for slippages that became apparent later in the fiscal year.

Only HCFA panel members mentioned the possibility of including behavioral offsets in their estimates of savings. HCFA actuaries often prepare Medicaid and Medicare cost estimates and make assumptions to compensate for behavioral responses. Panelists told us that including behavioral assumptions in estimates of Medicare program changes in the event of a sequester would improve the accuracy of savings estimates.

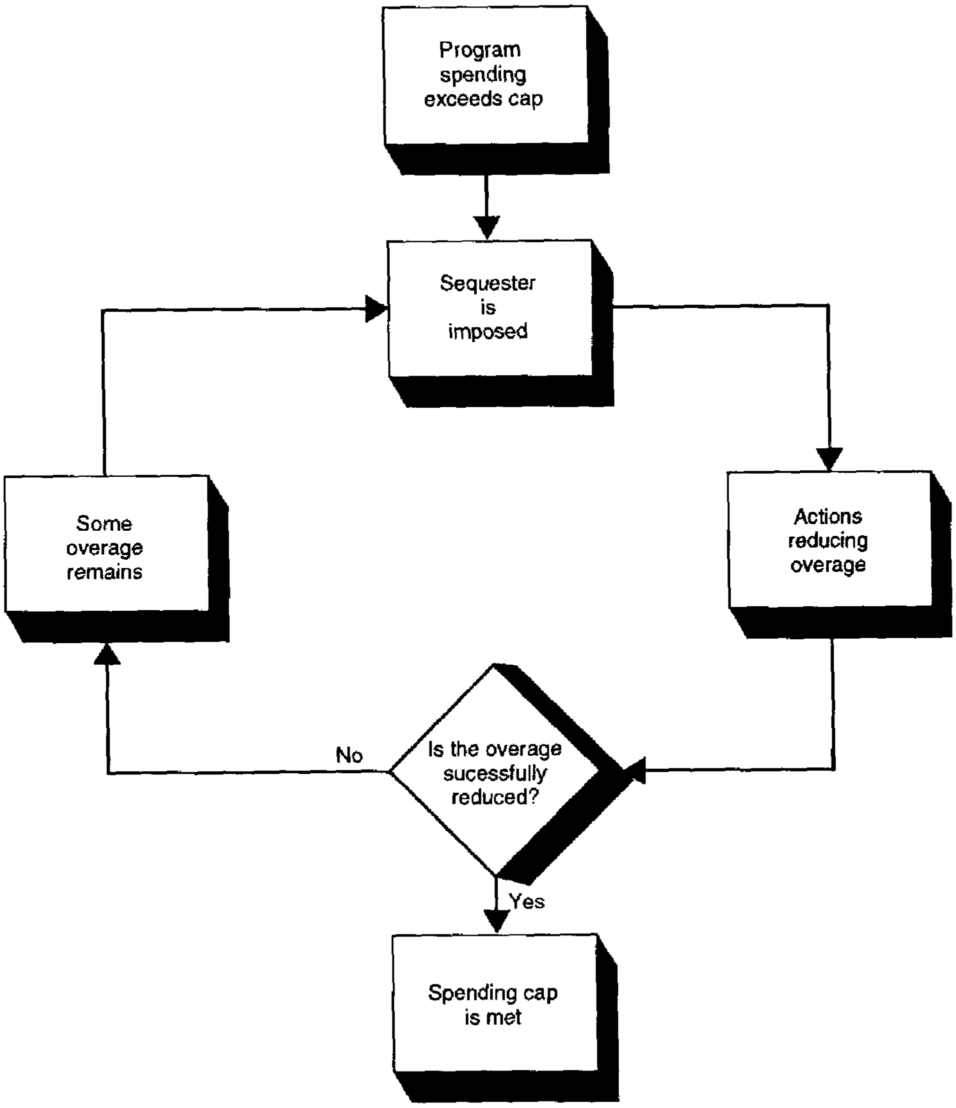
Difficulties in predicting spending combined with problems in accurately anticipating the budgetary impacts of program changes could make it difficult for agencies to avoid future sequesters. This is because if overall spending is underestimated, the savings from program changes—even though realized—might not be enough to hold spending below cap levels.

Subsequent cap breaches also may be more likely because sequestration may affect mandatory program spending differently than discretionary program spending. By reducing appropriations, a discretionary sequester would permanently alter the baseline for future discretionary spending. In contrast, a sequester might or might not have any affect on the baseline for future mandatory spending, depending on how a sequester was implemented. For example, a sequester that reduces benefit payments only for 1 year would not reduce the subsequent year's spending path for a program. In the absence of permanent structural changes in eligibility rules and benefit formulas, these factors would continue to drive the baseline for future spending.

Figure 4.3 illustrates this potentially unmanageable situation. As the figure shows, in the event of a breach, agencies would be responsible for determining the program and policy changes necessary to recoup the amount of the breach. If the agency succeeds in reducing spending, then outlays will not exceed the capped amount—and no other program changes will be necessary.[10] On the other hand, if the agency actions fail to reduce spending sufficiently, more program changes will be required. As the pattern repeats, agency problems would be compounded, and agencies may become caught in a perpetual cycle of cap breaches and sequestration.

[10] Despite actions taken to limit spending, external forces—such as a slower than expected economy—could cause spending to exceed the cap, triggering subsequent policy and program changes.

Figure 4.3: When Program Spending Exceeds a Cap


Program spending exceeds cap
Sequester is imposed
Some overage remains
Actions reducing overage
No
Is the overage sucessfully reduced?
Yes
Spending cap is met

Chapter 5

Conclusions

The federal government faces hard choices to reduce the deficit and use available resources wisely; therefore no expenditures—including mandatory programs—should escape budgetary control. At the same time, over 50 percent of all Americans depend on these programs to meet their income security, health care, and other needs. Reconciling these interests will not be easy.

The PAYGO provisions of the BEA have worked effectively to curb the expansion of existing and the creation of new mandatory programs. Reconciliation, too, has contributed savings. Even so, growth in existing mandatory programs—which is not controlled by BEA—continues to play a significant role in the ongoing deficit problem. Between 1986 and 1993, mandatory spending grew at a real average annual rate of 3.5 percent, compared to 2.6 percent for nondefense discretionary spending. These trends are expected to continue for the remainder of this decade.

Bringing existing mandatory spending under some budgetary control is important to reducing the deficit. The success of caps in controlling discretionary spending has led many to consider using this approach to control mandatory spending as well. Our legal analysis suggests that a carefully crafted and administered mandatory spending cap modifying the underlying statutory entitlement to benefits should survive legal challenges and savings would result.

However, there would be problems in imposing such a cap. Mandatory spending comprises a wide variety of programs and activities some of which are not suited to the objectives of a spending cap (for example, revolving funds). More importantly, the fundamental difference between discretionary appropriations and eligibility-based mandatory spending would complicate any sequester used to enforce a mandatory cap similar to those that have thus far been proposed. In the current open-ended environment, funds are spent as required for those who are eligible and wish to participate. Under such a cap, mandatory program spending would for the first time be governed by a new set of budgetary constraints.

The Congress periodically has attempted to reduce mandatory spending, but mandatory spending remains a major factor in the deficit problem. The same factors that have made spending hard to control in the past will make it hard for agencies responsible for many of the programs to plan, apportion, and administer changes that achieve the anticipated savings in the event of a sequester. Even if the Congress specified the approach agencies should follow in sequestering individual programs, agencies would still face difficulties estimating and projecting savings and total program outlays.

Our analysis shows that the programs that would be most affected by placing a cap on mandatory spending are also the programs for which agencies would have the most trouble estimating and realizing savings in the event their programs were sequestered. And, unlike the current environment, any resulting shortfalls in program savings or growth in spending that occurred despite agency efforts to reduce program costs would be added to the amount of cuts that must be accomplished in the next year—raising the prospect of a cycle of ever-larger sequestrations.

Furthermore, unlike a discretionary cap in which spending cuts permanently lower the base from which future spending grows, a mandatory cap could have little, if any, effect on the longer term spending path—until issues of underlying eligibility and benefits were addressed and/or the cuts are made permanent.[1]

Ideally, the Congress would look directly at the design of each program and consider its existing benefit structure, eligibility rules, and other operational elements and decide what changes, if any, are needed.[2] The Congress could change the way in which programs are designed and financed to make these programs more compatible with budgetary control techniques such as spending caps. For example, the Congress could limit its financial responsibilities for some social service programs by turning open-ended categorical grant programs into block grants to the states in exchange for a reduction in federal program regulations and administrative requirements.

Indeed, sponsors of mandatory programs have argued that the threat of a sequester will encourage the Congress to look at program design. Whether or not a sequester will succeed as a prompt for reforming individual programs is an open question. Our analysis leads us to believe that the consequences of actually implementing a sequester of mandatory programs presents enough problems to raise concerns.

This does not mean, however, that the Congress must accept the current condition. Bringing existing mandatory spending under some budgetary

[1] This does not mean that no sequesters affect long-term trends. Reducing the COLA for an indexed pension program would —if the cut were not restored—permanently lower the base.

[2] Program design alternatives for some mandatory programs are described in Addressing The Deficit: Budgetary Implications of Selected GAO Work (GAO/OCG-94-3, March 11, 1994).

control is important. There are other ways beyond the current processes to prompt congressional action.

One approach would require the Congress periodically to vote on whether or not to make program changes when mandatory spending exceeds certain targets. And, in the event that spending is projected to be below the targets, the Congress might want to lower the targets to prompt consideration of program changes. Unlike a cap, such a process leaves it to the Congress to make policy changes, and it is neither automatic nor formulaic. Rather, proposed changes in the underlying benefits structure and design of mandatory programs are considered in the context of a broader analysis, including the economic and other factors that drove spending.

Along these lines, the Congress could adopt a procedure similar to that adopted by the House in OBRA 1993 (but dropped in conference) and later recommended by House members of the Joint Committee on the Organization of Congress. This proposal created a mechanism to monitor the costs of mandatory spending and to make cuts where needed. It required the administration to submit a report to the Congress specifying direct spending targets for fiscal years 1994 through 1997. If the President's next budget showed that these targets were exceeded in the prior year or would be exceeded in the current or budget years, the administration would be required to analyze the causes of the overage and recommend ways to deal with it, which could include doing nothing. The Congress would be required to act on the administration's recommendation.

Matter for Congressional Consideration

The Congress may wish to consider a process under which it periodically assesses mandatory spending and votes on whether and/or how to change mandatory programs to reduce spending. In this process, the Congress would examine the causes of growth in mandatory spending and consider changes in the underlying design and benefits structure of mandatory programs to achieve reductions in spending if deemed appropriate.

Program Descriptions

Child Nutrition

Budget Code: 12-3539

Fiscal Years 1983-1993 Growth Rate:[1] 3.12 percent

Fiscal Year 1993 Net Outlays: $6.6 billion

The Child Nutrition Act of 1966 and the National School Lunch Act provide federal cash payments and/or commodity support to states and other institutions that provide nutritional services for children. While beneficiaries are primarily children in schools with participating programs, children and adults in day care and summer programs also receive nutrition services. The services are jointly administered by a variety of entities, including federal, state, and local governments; private organizations; and individuals. At the federal level, the Department of Agriculture's Food and Nutrition Service (FNS) is responsible for program administration. Child nutrition services are financed by federal and state governments. The federal government provides grants on a reimbursement basis to the states, who disburse funds to the different organizations and institutions.

The two best known child nutrition programs are the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). States are reimbursed fixed dollar amounts for each meal served under these programs. The amounts are determined by the meal "need" category: free, reduced, or paid. NSLP and SBP provide both free and reduced priced meals for eligible low income children. However, since a certain level of cash and commodity assistance is mandated for all lunches, all participants receive some subsidy. In fiscal year 1992, NSLP provided subsidized lunches to 24.5 million students per day on average. In fiscal year 1992, 92,660 elementary and secondary schools or institutions participated in NSLP; of the 43.2 million children enrolled in these schools, 24.5 million or 57 percent participated on an average day. In fiscal year 1992, SBP provided breakfasts to an average daily 4.9 million students per day in 55,000 participating schools.

[1] For all 10 mandatory programs under review, average annual growth rates are calculated using actual outlays for fiscal years 1983-1993.

Applying the representative cap[2] to child nutrition programs—and defining beneficiaries as total participants who received services[3]—these programs would have exceeded fiscal year 1991 allowable spending by 4 percent, or $232 million.[4] However, different methods could be used to calculate beneficiaries. For example, defining beneficiaries as students enrolled in schools that offer child nutrition programs yields a spending cap overage of 3 percent.[5]

Civil Service Retirement and Disability Trust Fund

Budget Code: 24-8135

Fiscal Years 1983-1993 Growth Rate: 1.25 percent

Fiscal Year 1993 Net Outlays: $34.8 billion

The Civil Service Retirement System (CSRS), created in 1920, and the Federal Employees Retirement System (FERS), established in 1986, provide retirement benefits for most civilian employees of the federal government and their survivors. Both programs are administered by the federal government through the Office of Personnel Management (OPM). These programs are financed by federal agency and employee contributions—agencies contribute their employer share of costs to the trust fund and the employees contribute a specified percentage of their salaries. Additional contributions are made by the Department of Treasury to cover liabilities created by benefit improvements and interest on unfunded liabilities.

CSRS is a defined benefit plan which covers employees hired prior to 1984. CSRS beneficiaries do not participate in the Social Security system. CSRS is the nation's largest pension plan with about 80,000 to 90,000 workers retiring annually. FERS is a three-tiered pension program that includes

[2] See figure 3.1, which describes the sample cap formula. Sample cap calculations for all of the mandatory spending programs under review are based on fiscal year 1990 and fiscal year 1991 actual outlays and beneficiary data found in Overview of Entitlement Programs, 1993 Green Book, Committee on Ways and Means U.S. House of Representatives, 103rd Congress, 1st Session, 1993, Committee Print 18. Hereafter, this source referred to as the 1993 Green Book.

[3] Child Nutrition participation is based on 9 month average participation for October through May plus September, which reflects the school year. Participants include students who receive paid, free, and reduced price meals (1993 Green Book).

[4] This calculation only includes NSLP and SBP data. For example, the following Child Nutrition programs are excluded: (1) the Child and Adult Care Program, (2) the Special Milk Program, and (3) Summer Food Service Program information.

[5] Students enrolled are defined as those with access to the program. This calculation only includes NSLP and SBP data (1993 Green Book).

Social Security, a defined benefit plan, and a thrift savings component. FERS is generally applicable to employees first hired after December 31, 1983, and to those employees who chose to convert from CSRS to FERS.

Applying the representative cap to CSRS and FERS—and defining beneficiaries as recipients of cash benefits[6]—the program would have exceeded fiscal year 1991 allowable spending by .002 percent, or $1 million.

Earned Income Tax Credit

Budget Code: 20-0906

Fiscal Years 1983-1993 Growth Rate: 17.18 percent

Fiscal Year 1993 Net Outlays: $8.8 billion

The Earned Income Tax Credit (EITC) was enacted in 1975 to provide tax relief to working, low-income taxpayers with children. By offering relief from the Social Security payroll tax, the EITC was intended to increase incentives to work. With the enactment of the Omnibus Reconciliation Act of 1993, working families without children will, for the first time, also be eligible for the tax credit. The EITC is administered and financed by the federal government. Under the Department of the Treasury, the Internal Revenue Service is responsible for administering the program. In fiscal year 1993, it was estimated that 14 million families would receive the credit, which is expected to average $859 per family.

The EITC functions in part as a tax expenditure. For fiscal year 1993, the EITC tax expenditure outlay equivalent was $3.6 billion. Since the EITC is a refundable tax credit, beneficiaries can receive a cash refund when benefits exceed tax liabilities. These expenses are treated as budget outlays. For fiscal year 1993, these outlays amounted to $8.8 billion.

Applying the representative cap to the cash outlay portion of the EITC program—and defining beneficiaries as EITC tax filers[7]—the program would not have exceeded fiscal year 1991 allowable spending;[8] hence, no spending reductions would have been necessary.

[6] For further information, see Budget of the United States Government, Fiscal Year 1993.

[7] For further information, see 1993 Green Book.

[8] Since its enactment in 1975, EITC program expansions have been the result of a series of policy and legislative changes which have increased the eligible population. See 1993 Green Book for further information.

Federal Employees Health Benefits

Budget Code: 24-8440

Fiscal Years 1983-1993 Growth Rate: Not calculated[9]

Fiscal Year 1993 Net Outlays: $-.9 billion[10]

The Federal Employees Health Benefits Program (FEHBP) is the largest employer-sponsored health insurance program in the U.S. It was enacted in 1959 and began operating in 1960. The program offers medical, dental, and hospital coverage for an estimated 9 million federal employees, annuitants, and dependents. Most federal employees and annuitants are eligible for coverage under FEHBP.

The program is administered by the federal government, private insurance carriers, and other institutions. At the federal level, OPM is responsible for administering the program. Over 300 different health plans are offered by scores of private-sector health insurance carriers and health maintenance organizations. FEHBP is financed by both the federal government and individual contributions. Individual federal agencies are responsible for the employer share of health benefit payments for qualified employees, and individuals select and pay varying premiums for their health insurance coverage. In addition, the federal government appropriates funds to finance the federal share of annuitants' health benefits costs. The federal government paid about 72 percent of the average premium costs in fiscal year 1993.

Applying the representative cap to FEHBP—and defining beneficiaries as active employees and annuitants participating in health plans who receive health care services[11]—the program would have exceeded fiscal year 1991 allowable spending by 4 percent,[12] or $500 million.

[9] Because the Federal Employees Health Benefits program had both positive and negative outlays, its average annual growth rate could not be calculated separately.

[10] FEHBP—which is funded by both federal and individual contributions—typically has negative net outlays, meaning the program collects more income than it spends. As a revolving trust fund, FEHBP is able to offset program costs from income derived from operations.

[11] For further information, see Budget of the United States Government, Fiscal Year 1993.

[12] FEHBP gross outlays were used to calculate the representative cap.

Foster Care and Adoption Assistance

Budget Code: 75-1545

Fiscal Years 1983-1993 Growth Rate: 16.52 percent

Fiscal Year 1993 Net Outlays: $2.6 billion

Foster Care and Adoption Assistance (FCAA) programs encompass specified activities which provide support to children—for example, protection and care of abused and neglected children, social and nutritional development, and out-of-home care. FCAA is administered and financed by both the federal government and state and local entities. The Department of Health and Human Services is responsible for federal administration of the program. Since 1961, the federal government has provided financial support to state and local child welfare services; federal support ranges from capped support to open-ended entitlements with matching rates of 50 percent and 75 percent. Federal involvement in FCAA is limited to setting policy and providing oversight of state and local implementation of the Child Welfare Act (Public Law 96-272). The Congressional Budget Office projects that between 1993 and 1998, under current law, the foster care caseload will increase from 236,000 to 304,000 and, over this same period, the adoption assistance caseload will rise from 79,000 to 119,000.

There are four main FCAA programs. Title IV-B—the Child Welfare Services Program—authorizes 75 percent federal matching grants to states for services which protect the welfare of children who may be at risk of abuse, neglect, exploitation, or delinquency, regardless of income level. Title IV-E—the Foster Care Program—provides matching funds to states for the maintenance payments made for children eligible for Aid to Families With Dependent Children (AFDC) in foster care family homes, facilities, or institutions. The Independent Living Program—a sub-section of the IV-E program—assists children ages 16 and over in the transition from foster care to independent living. The Adoption Assistance Program—also part of the IV-E program—provides federal funds to match state funds providing assistance to parents who adopt children with special needs who are eligible for AFDC or SSI.

Applying the representative cap to FCAA—and defining beneficiaries as the average monthly number of recipients[13]—the program would have

[13] Beneficiary information does not include participants in Title IV-B Child Welfare Services. For further information, see Overview of Entitlement Programs, 1992 Green Book, Committee on Ways and Means, U.S. House of Representatives, 102nd Congress, 2nd session, 1992, Committee Print 44, and 1993 Green Book.

exceeded fiscal year 1991 allowable spending by 10 percent, or $206 million. However, different methods could be used to calculate beneficiaries. For example, if beneficiaries are defined as eligible FCAA children, spending overages are 8 percent, or $175 million. Furthermore, FCAA has some data collection problems which affect the program's ability to determine the number of FCAA beneficiaries for any given period.[14]

Medicaid

Budget Code: 75-0512

Fiscal Years 1983-1993 Growth Rate: 10.43 percent

Fiscal Year 1993 Net Outlays: $75.8 billion

Medicaid—enacted in 1965—is a federal-state matching program providing medical assistance for certain categories of low-income persons. Within broad federal guidelines, states vary significantly in terms of who is eligible, type and scope of benefits, and payment levels. Medicaid is administered primarily by states, with federal oversight provided by the Department of Health and Human Services through the Health Care Financing Administration; financing is provided primarily by federal and state matching funds, with some contributions by local governments as well.

To receive federal matching funds, states are required to provide coverage of certain individuals and to offer a specified minimum package of services. Determining eligibility for Medicaid is a complex process dependent upon federal mandated coverage and each individual state's decisions regarding a wide variety of optionally covered individuals and services. Income testing for both mandated and optional coverage is based upon family income.

Applying the representative cap to Medicaid—and defining beneficiaries as all recipients of health care services[15]—the program would have exceeded fiscal year 1991 allowable spending by 8 percent, or $4 billion.

[14] FCAA has data collection problems which affect the program's ability to determine beneficiaries for any given period. A lack of reliable data exists for the number of children receiving services as well as the costs of these services. For further information, see 1993 Green Book and Foster Care: Children's Experiences Linked to Various Factors; Better Data Needed (GAO/HRD-91-64, September 11, 1991).

[15] Medicaid beneficiaries include recipients at any time during the year. For further information on Medicaid beneficiaries, see 1993 Green Book. Though not provided by the 1993 Green Book, another measure of the Medicaid beneficiary population could include all eligible individuals regardless of whether they consumed health care services.

Medicare

Budget Code: Part A 20-8005 Part B 20-8004

Fiscal Years 1983-1993 Growth Rate: 5.25 percent

Fiscal Year 1993 Net Outlays: $127.8 billion

Medicare is a federal health insurance program enacted in 1965. Initially, Americans aged 65 or older were covered. Coverage was later extended to certain disabled persons by the Social Security Amendments of 1972. The Department of Health and Human Services administers Medicare and contracts with insurance companies for claims processing services.

Medicare has two parts, each of which is financed differently. Part A (hospital insurance) covers inpatient hospital, skilled nursing facility, home health, and hospice services. It is financed by a 1.45 percent payroll tax on employers and employees. All citizens 65 years of age or older with credit for at least 40 quarters of employment are fully insured for life under Social Security. They are entitled to Part A at no cost. Senior citizens without sufficient quarters of coverage can purchase Part A for premiums based on the actuarial value of benefits. Persons who have received Social Security disability benefits for 24 months and most people with kidney disease—end stage renal disease (ESRD)—are also entitled to Part A without additional premium payments. For fiscal year 1993, it was estimated that about 31.3 million aged and 3.7 million disabled would be eligible for Part A benefits and, of those, about 6.9 million aged and 0.8 million disabled were expected to actually receive reimbursed services. Fiscal year 1993 federal outlays for Medicare Part A were $90.5 billion.

Medicare Part B (supplemental medical insurance) is a voluntary program under which anyone aged 65 or older, and those disabled and ESRD patients entitled to Part A, can purchase coverage for a wide range of outpatient services ranging from physicians' services to clinical laboratory tests. Enrollees pay a monthly premium that covers 25 percent of program costs, and federal general revenues pay the remainder. Beneficiaries are responsible for a $100 annual deductible payment. For most covered services, beneficiaries are also responsible for 20 percent coinsurance. If a Medicare beneficiary qualifies for Medicaid (an income tested program), the Medicaid program will purchase his or her Medicare Part B premiums. For fiscal year 1993, it was projected that (1) 30.8 million aged and 3.4 million disabled would be enrolled in Part B and (2) over 26 million of the aged and 2.7 million of the disabled would receive reimbursed services under Part B. In fiscal year 1993, federal outlays for Medicare Part B were $52.6 billion.

Applying the representative cap to Medicare—and defining beneficiaries as individuals receiving reimbursed services[16]—the program would have exceeded fiscal year 1991 allowable spending by 1 percent, or $940 million. However, different methods could be used to calculate beneficiaries. For example, if beneficiaries are defined as all eligible individuals, regardless of whether health care services are consumed,[17] spending overages would be 0.2 percent, or $266 million.

Military Retirement Fund

Budget Code: 97-8097

Fiscal Years 1983-1993 Growth Rate: 0.84 percent

Fiscal Year 1993 Net Outlays: $25.7 billion

The Military Retirement Fund (MRF)[18] is a retirement program for active duty personnel (full time) and reservists (part time) serving in the military. Eligibility for retirement pensions can occur in three ways:
(1) nondisability retirement (requiring 20 years of military service, although there is a temporary early retirement with 15 years), (2) disability retirement, and (3) benefits for eligible survivors of deceased retirees. Nondisability retirement accounted for over 82 percent of the 1,709,643 retirees and survivors.[19] The Department of Defense (DOD) administers MRF.

MRF is funded solely by the federal government from three sources: DOD contributions, a Treasury payment for the unfunded liability portion of MRF, and interest from trust fund investments. Military personnel do not contribute to MRF. However, since 1957, they have paid Social Security taxes, making them eligible for full Social Security benefits in addition to their retirement pay.

[16] For further information, see 1993 Green Book.

[17] For further information, see 1993 Green Book.

[18] The military retirement system has a long history of budget and operational changes. Use of the term "Military Retirement Fund" reflects the current budgetary treatment of the system, which was established starting October 1, 1984.

[19] Data reflect retirees and survivors as of September 30, 1992.

Reforms of MRF resulted in three different tiers of retirement pay computations. The first retirement pay computation—Final Pay formula—applies to military personnel who entered the Armed Services before September 8, 1980; retirement benefits are based on final basic pay. The second tier of retirement pay—HI-3 formula[20]—covers military personnel who entered the Armed Services on or after September 8, 1980, through July 31, 1986. Instead of final basic pay, the average of the highest 3 years of basic pay is used for retirement benefit calculations. The third retirement pay computation—Redux formula—is for service members who enlisted on or after August 1, 1986. Retirement pay calculations are similar to the HI-3 formula except that the percentage of basic pay is reduced if the member retires with less than 30 years of service. In addition, the Redux has a COLA adjustment whereby retirees will receive a COLA that is 1 percentage point lower. At age 62, the member receives a one-time recomputation of the annuity payment to compensate for lost purchasing power.

Applying the representative cap to MRF—and defining beneficiaries as recipients of cash benefits[21]—the program would have exceeded fiscal year 1991 allowable spending by about 1 percent, or $172 million.

Social Security

Budget Code: OASI Trust Fund 20-8006 DI Trust Fund 20-8007

Fiscal Years 1983-1993 Growth Rate: OASI—1.69 percent DI—2.92 percent

Fiscal Year 1993 Net Outlays: OASI—$268.2 billion DI—$33.8 billion

In 1935, the Social Security Act was passed, establishing a program to provide monthly retirement benefits to workers. Program benefits are generally based on average lifetime taxable earnings. Over the years, the benefit amount, taxable income base, and tax rates have been substantially increased. Participation in the program was mandatory for most workers. In addition to changes in benefits and taxation, the law has also been amended to add survivors' coverage and later to provide benefits for the disabled. As a result, title II of the Social Security Act now provides for two programs, the Old-Age and Survivors Insurance program (OASI) and the Disability Insurance program (DI).

[20] The HI-3 formula provides for retirement benefits equal to the average of the highest three years' salaries.

[21] For further information, see Robert L. Goldich, "Military Retirement and Separation Benefits: Major Legislative Issues," CRS Issue Brief, February 4, 1993, Order Code IB85159.

Each of these programs is financed by Federal Insurance Contribution Act and Self-Employment Contributions Act tax contributions placed in separated trust funds from which benefits are paid. Both programs are federally administered by the Social Security Administration, a division of the Department of Health and Human Services. In August 1993, there were about 42 million beneficiaries in the OASI and DI programs. At the time of our review, legislation making the Social Security Administration an independent agency was in conference. This, however, would not affect the analysis of a cap.

Old Age Survivors Insurance Component

Under the OASI program, which accounts for about 90 percent of the benefits paid, workers may retire at age 65 and receive full benefits. Retirees can opt to retire as early as age 62 and receive reduced benefits. Legislation has been passed to extend the full retirement age to 66 in the year 2005 and to age 67 in the year 2022. Persons who continue to work after becoming an OASI beneficiary have their benefits reduced once these persons' income exceeds threshold amounts based on age. In 1993, these thresholds were $7,680 for persons under age 65 and $10,560 for persons between the ages of 65 through 69. Benefits are not reduced for earnings after a person has reached the age of 70.

Applying the representative cap to OASI—and defining beneficiaries as recipients of cash benefits[22]—the program would have exceeded fiscal year 1991 allowable spending by 2 percent, or $4 billion.

Disability Insurance Component

The DI program accounts for the remaining approximately 10 percent of total Social Security benefit outlays. The DI program is federally financed and is administered by both the federal government and state entities (Disability Determination Services). The DI program pays benefits to individuals who are unable to work because of a medical condition(s) that prevents substantial gainful activity.

Applying the representative cap to DI—and defining beneficiaries as recipients of cash benefits[23]—the program would have exceeded fiscal year 1991 allowable spending by 2 percent, or $540 million.

[22] OASI beneficiaries are defined as of December of each year. For further information, see 1993 Green Book.

[23] DI beneficiaries are defined as of December of each year. For further information, see 1993 Green Book.

Supplemental Security Income

Budget Code: 75-0406

Fiscal Years 1983-1993 Growth Rate: 6.06 percent

Fiscal Year 1993 Net Outlays: $21.1 billion

Supplemental security income (SSI) is an income and resource tested cash assistance program. SSI provides an income floor of monthly cash payments—in accordance with uniform, nationwide eligibility requirements—to low-income people who are aged, blind, or disabled. It was established by the 1972 amendments to the Social Security Act (Public Law 92-603). The SSI program replaced former federal grants to the states for three categories of assistance—aged, blind, and disabled. SSI is both federally administered—by the Social Security Administration—and federally financed. In addition, state supplementary payments exist in many states and jurisdictions. States are required by law to maintain income levels of former social welfare recipients transferred to the federal SSI program.

The number of SSI recipients in June 1994 was 6.1 million.[24] From the mid-1980s through the present, the SSI disabled population has grown more rapidly than either the elderly or the blind SSI populations. Adult SSI disability requirements are based on the same standards used in the Social Security Disability Insurance program. For children, determination of eligibility takes into account functional limitations based on age-appropriate activities.

Applying the representative cap to SSI—and defining beneficiaries as recipients who receive cash benefits[25]—the program would have exceeded fiscal year allowable spending by 12 percent, or $2 billion.[26]

[24] This number reflects all persons receiving a federal SSI payment and/or federally administered state supplement.

[25] For further information, see 1993 Green Book.

[26] Since its enactment in 1972, SSI program expansions have been the result of a series of judicial, legislative, and policy changes which have increased the eligible population. For further information, see 1993 Green Book.

Appendix II

Fiscal Year 1993 Mandatory Budget Accounts

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
1	20-0550	Treasury	Other Interest on the Public Debt	$292,502,219
2	20-8006[a]	Health and Human Services, Social Security (HHS/SS)	Old Age and Survivor's Insurance trust fund	268,232,583
3	20-8005[a]	Health and Human Services (HHS)	Hospital insurance trust fund	90,508,865
4	75-0512	HHS	Grants to States for Medicaid	75,774,060
5	20-8004[a]	HHS	Supplemental medical insurance trust fund	52,578,912
6	75-0580	HHS	Payments to health care trust funds	44,721,499
7	20-8042[a]	Labor	Unemployment trust fund	36,302,251
8	24-8135[a]	Office of Personnel Management (OPM)	Civil service retirement and disability trust fund	34,834,275
9	20-8007[a]	HHS/SS	Disability insurance trust fund	33,769,574
10	97-8097	DOD—Civil	Military retirement fund	25,707,578
11	12-3505	Agriculture	Food stamp program	23,577,380
12	75-0406[a]	HHS	Supplemental Security Income program	21,078,061
13	24-0200	OPM	Payment to civil service retirement and disability fund	19,793,339
14	75-1501	HHS	Family support payments to states	15,628,003
15	12-4336	Agriculture	Commodity Credit Corporation	15,055,411
16	36-0153	Veterans Affairs (VA)	Compensation	13,383,506
17	11-8242	Funds Appropriated to the President	Foreign Military Sales trust fund	13,161,826
18	97-0040	DOD—Civil	Payment to military retirement fund	12,273,000
19	20-0906	Treasury	Payment where earned income credit exceeds liability for tax	8,780,787
20	60-8010	Railroad Retirement Board (RRB)	Railroad social security equivalent benefit	7,856,631
21	16-0178	Labor	Payments to the unemployment trust fund	7,532,296
22	12-3539	Agriculture	State child nutrition programs	6,596,588
23	75-0404	HHS	Payments to social security trust funds	6,235,801
24	16-0327	Labor	Advances to the unemployment trust fund and other funds	4,994,116
25	24-0206	OPM	Government payment for annuitants, employees health benefits	3,765,223
26	36-0154	VA	Pensions	3,528,807
27	91-0230[b]	Education	Federal family education loan program	3,202,902
28	60-0113	RRB	Payments to the Railroad Retirement Fund	2,998,067
29	75-1534	HHS	Social services block grant	2,784,745
30	60-8011[a]	RRB	Rail Industry Pension fund	2,726,256
31	75-1545[a]	HHS	Payments to states for foster care and adoption assistance	2,628,015

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
32	51-4065	Federal Deposit Insurance Corporation (FDIC)	FSLIC Resolution Fund	2,362,320
33	20-1851	Treasury	Payment to the Resolution Funding Corporation	2,328,306
34	91-0231[a]	Education	Federal family education loan program	2,291,532
35	20-0904	Treasury	Refunding internal revenue collections, interest	2,127,457
36	91-0301	Education	Rehabilitation services and disability research	1,983,848
37	12-3319	Agriculture	Conservation reserve program	1,689,602
38	64-4110[a]	Tennessee Valley Authority	Tennessee Valley Authority fund (Energy supply)	1,486,171
39	18-4020	Postal Service	Postal Service fund	1,441,105
40	36-8132	VA	National service life insurance fund	1,127,393
41	12-3550	Agriculture	Nutrition assistance for Puerto Rico	1,025,051
42	20-8144	Labor	Black lung disability trust fund	977,764
43	36-1119[a]	VA	Guaranty and indemnity program	861,244
44	36-0137	VA	Readjustment benefits	854,491
45	75-0409	HHS	Special benefits for disabled coal miners	801,041
46	75-1509	HHS	Payments to states for AFDC work programs	736,474
47	20-0920	Treasury	Health insurance supplement to earned income credit	649,820
48	89-4045	Energy	Bonneville Power Administration fund	641,222
49	12-1336[a]	Agriculture	Commodity Credit Corporation loans program	534,380
50	12-5209	Agriculture	Funds for strengthening markets, income, and supply (section 32)	524,853
51	20-1895	Treasury	Claims, judgments, and relief acts	519,425
52	20-1880	Treasury	Credit reform: Interest paid on uninvested funds	513,536
53	12-4155[b]	Agriculture	Rural development insurance fund	510,417
54	69-0241	Transportation	Retired pay	504,648
55	15-0329	Justice	Civil liberties public education fund	499,914
56	58-4236	Federal Emergency Management Agency (FEMA)	National flood insurance fund	475,411
57	14-5003	Interior	Mineral leasing and associated payments	462,522
58	12-4338[b]	Agriculture	Commodity Credit Corporation guaranteed loans	453,485
59	19-8186	State	Foreign Service retirement and disability fund	412,370

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
60	47-4542[a]	General Services Administration (GSA)	Federal buildings fund	327,708
61	75-1508	HHS	Interim assistance to states for legalization	318,257
62	15-5042[a]	Justice	Assets forfeiture fund	317,822
63	12-9921	Agriculture	Forest Service permanent appropriations	308,572
64	15-5088	Justice	Immigration examinations fee	294,352
65	14-9973	Interior	Miscellaneous trust funds (Area and regional development)	286,511
66	86-4072[b]	Housing and Urban Development (HUD)	Federal Housing Administration general and special risk insurance funds	283,795
67	19-0540	State	Payment to the Foreign Service retirement and disability fund	273,382
68	12-8028	Agriculture	Cooperative work trust fund	263,539
69	14-8151	Interior	Sport fish restoration	231,192
70	12-9922	Agriculture	Forest Service permanent appropriations	224,364
71	15-5087	Justice	Immigration user fee	224,166
72	16-1521	Labor	Special benefits	216,033
73	11-4121[b]	Funds Appropriated to the President	Foreign military loan	205,868
74	12-4141[a]	Agriculture	Rural housing insurance fund	197,725
75	20-5737	Treasury	Internal revenue collections for Puerto Rico	197,472
76	21-4528	DOD—Military	Army conventional ammunition working capital fund	194,561
77	97-8098	DOD—Civil	Education benefits fund	182,358
78	86-4070[b]	Housing and Urban Development (HUD)	FHA mutual mortgage and cooperative housing insurance funds	180,779
79	56-3400	Central Intelligence Agency (CIA)	Payment to the CIA retirement and disability fund	168,900
80	10-0920[a]	The Judiciary	Court of appeals district courts, and other judicial services	161,168
81	20-0602[a]	Treasury	Salaries and expenses	158,393
82	14-9923	Interior	Miscellaneous permanent appropriations	157,034
83	95-8295	United Mine Workers of America Benefit Funds	Combined benefit fund	155,372
84	36-4023[b]	VA	Guaranty and indemnity fund	151,891
85	86-4098	HUD	Low-rent public housing—loans and other expenses	150,694
86	14-0415[a]	Interior	Compact of free association	149,808
87	12-4085	Agriculture	Federal Crop Insurance Corporation fund	144,674
88	89-0233[a]	Energy	Strategic Petroleum Reserve	137,000
89	15-5041	Justice	Crime victims fund	135,990
90	96-8862	DOD—Civil	Rivers and harbors contributed funds	134,118

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
91	75-0379	HHS	Retirement pay and medical benefits for commissioned officers	132,303
92	16-0326	Labor	Federal unemployment benefits and allowances (Training and employment)	130,981
93	78-8202	Farm Credit System	Financial assistance corporation trust fund	127,008
94	20-9922	Treasury	Miscellaneous permanent appropriations	125,826
95	75-0320	HHS	Vaccine injury compensation	123,159
96	36-1025[a]	VA	Loan guaranty program	119,577
97	86-4115[b]	HUD	Housing for the elderly or handicapped fund	117,219
98	20-0560[a]	Treasury	Administering the public debt	115,367
99	16-9971[a]	Labor	Special worker's compensation	113,155
100	12-9972	Agriculture	Miscellaneous trust funds	107,553
101	36-8133	VA	Post-Vietnam era veterans education	102,755
102	36-0155	VA	Burial benefits and miscellaneous assistance	99,230
103	60-8012	RRB	Supplemental Annuity Pension Fund	98,778
104	14-0418	Interior	Payments to the United States territories, fiscal assistance	97,253
105	12-4231[b]	Agriculture	Rural telephone bank	92,046
106	36-4025[b]	VA	Loan guaranty revolving fund	90,748
107	36-5014	VA	Medical care cost recovery fund	89,187
108	97-8165	DOD—Military	Foreign national employees separation pay	82,570
109	20-5697[a]	Treasury	Department of the Treasury forfeiture fund	82,395
110	10-5114	The Judiciary	Judiciary automation fund	82,283
111	14-5143[a]	Interior	Cooperative endangered species conservation fund	79,761
112	20-1850[b]	Treasury	Payments to the farm credit system financial assistance corporation	77,264
113	14-2305	Interior	Payment to Tribal Economic Recovery Funds	76,800
114	14-9921	Interior	Miscellaneous permanent appropriations (Water resources)	75,032
115	14-9925	Interior	Miscellaneous permanent appropriations (Area and regional development)	74,675
116	00-0200	Legislative Branch	Compensation of Members and related administrative expenses	71,678
117	12-2081[a]	Agriculture	Rural housing insurance fund program	71,556
118	15-0311[a]	Justice	Fees and expenses of witnesses	70,177
119	42-0102[a]	Pennsylvania Avenue Development Corporation	Public development	70,000

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
120	60-8051[a]	RRB	Railroad unemployment insurance trust fund	69,502
121	69-1751	Transportation	Ocean freight differential	62,125
122	72-9971	Funds Appropriated to the President	Miscellaneous trust funds	57,591
123	12-4140[b]	Agriculture	Agricultural credit insurance fund	54,539
124	46-0300	Washington Metropolitan Area Transit Authority	Interest payments	52,879
125	36-4009	VA	Servicemen's group life insurance fund	47,990
126	75-4305[b]	HHS	Health professions graduate student loan insurance fund	46,439
127	97-8335	DOD—Military	Voluntary separation incentive fund	46,430
128	89-8575	Energy	Advances for cooperative work	45,901
129	73-4154[b]	Small Business Administration (SBA)	Business loan fund	43,287
130	11-1036	Funds Appropriated to the President	Payment to the Foreign Service retirement and disability fund	42,677
131	12-3513	Agriculture	Public Law 102-552 Temporary Assistance	42,329
132	14-5656	Interior	Colorado River dam fund, Boulder Canyon project	39,781
133	18-1004	Postal Service— Payments to the Postal Service	Payment to the Postal Service fund for nonfunded liabilities	38,614
134	20-1407	Treasury	Contribution for annuity benefits	38,173
135	12-8046	Agriculture	Reforestation trust fund	36,668
136	14-5137	Interior	Migratory bird conservation	36,364
137	75-0340[a]	HHS	Health professions graduate student loan insurance program	31,245
138	01-4518	Legislative Branch	Judiciary office building development and operations fund	28,394
139	36-8180	VA	General post fund, national homes	27,675
140	17-3980	DOD—Military	Navy management fund	27,477
141	75-9971	HHS	Miscellaneous trust funds	27,066
142	26-5290	Federal Retirement Thrift Investment Board	Program expenses	25,628
143	14-8070	Interior	Reclamation trust funds	24,525
144	13-8546	Commerce	Information products and services	24,423
145	17-9972	DOD—Military	Department of the Navy trust funds	23,901
146	15-0403[a]	Justice	Public safety officers' benefits	23,709
147	12-1230[a]	Agriculture	Rural electrification and telephone loans program	23,429
148	36-0120	VA	Veterans insurance and indemnities	21,866
149	10-5100	The Judiciary	Judiciary filing fees	20,504

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
150	36-8150	VA	United States government life insurance fund	20,337
151	20-4501	Treasury	Working capital fund	19,510
152	12-1140[a]	Agriculture	Agricultural credit insurance program	18,796
153	72-4340[b]	Funds Appropriated to the President	Housing and other credit guaranty programs	17,854
154	73-4147[b]	SBA	Pollution control equipment fund	17,522
155	03-5175	Legislative Branch	Payments to copyright owners	16,398
156	00-0100	Legislative Branch	Compensation of members, Senate	16,164
157	20-8175[a]	HHS	Vaccine injury compensation program trust fund	16,163
158	86-4586	HUD	Working capital fund	16,136
159	03-9971	Legislative Branch	Gift and trust fund accounts	15,881
160	12-3502	Agriculture	Special milk program	15,535
161	96-4902	DOD—Civil	Revolving fund	13,791
162	91-0242[b]	Education	College housing and academic facilities loans	12,524
163	96-9921	DOD—Civil	Permanent appropriations (Water resources)	12,364
164	15-0327	Justice	Independent counsel	12,226
165	15-4526	Justice	Working capital fund	11,782
166	75-9941	HHS	Service, supply, and other funds	11,525
167	24-0500	OPM	Payment for annuitants, employee life insurance benefits	11,522
168	20-4108	Treasury	Office of Thrift Supervision	11,413
169	20-5811	Treasury	Coinage profit fund	11,178
170	12-4233[b]	Agriculture	Rural development loan fund	10,282
171	14-5049	Interior	Operation and maintenance of quarters	10,260
172	14-5132	Interior	Range improvements	10,153
173	91-0243	Education	Federal direct loan demonstration program	10,000
174	69-8313	Transportation	Emergency fund	9,751
175	15-5126	Justice	Breached bond/detention fund	9,587
176	49-8960	National Science Foundation	Donations	9,488
177	47-5250	GSA	Expenses of transportation audit contracts and contract administration	9,307
178	12-8214	Agriculture	Miscellaneous contributed funds	9,235
179	14-9972	Interior	Miscellaneous trust funds	9,139
180	15-5131	Justice	Diversion control fee	8,807
181	14-9971	Interior	Miscellaneous trust funds	8,671

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
182	21-5098	DOD—Military	Restoration of the Rocky Mountain Arsenal	8,597
183	10-0941	The Judiciary	Payment to judicial trust funds	8,520
184	12-1080	Agriculture	Wetlands reserve program	8,302
185	20-8789	Treasury	Refunds, transfers and expenses, unclaimed, and abandoned goods	7,932
186	14-0419[b]	Interior	Guam Power	7,923
187	86-5271	HUD	Manufactured home inspection and monitoring	7,626
188	12-5070	Agriculture	Perishable Agricultural Commodities Act fund	7,584
189	86-4015[b]	HUD	Revolving fund	7,579
190	15-5086	Justice	Immigration legalization	7,330
191	12-9971	Agriculture	Miscellaneous trust funds	7,167
192	96-8333	DOD—Civil	Coastal wetlands restoration trust fund	6,996
193	11-8238	Funds Appropriated to the President	Kuwait civil reconstruction trust fund	6,984
194	89-5069	Energy	Emergency fund, Western Area Power Administration	6,708
195	14-2204	Interior	White Earth settlement fund	6,639
196	12-5219	Agriculture	Operation and maintenance of quarters	6,548
197	14-5091[a]	Interior	National wildlife refuge fund	6,521
198	13-5139	Commerce	Promote and develop fishery products and research pertaining to American fisheries	6,283
199	19-8340	State	Foreign service national separation liability trust fund	6,069
200	10-8110	The Judiciary	Judicial survivors' annuities fund	5,971
201	20-5081	Treasury	Presidential election campaign fund	5,804
202	95-8260	United Mine Workers of America Benefit Funds	1992 benefit plan	5,719
203	69-9971	Transportation	Miscellaneous trust funds	5,702
204	68-4321[b]	Environmental Protection Agency (EPA)	Abatement, control, and compliance direct loan	5,684
205	14-5051	Interior	Operation and maintenance of quarters	5,634
206	69-8312	Transportation	Payment of claims	5,603
207	16-5155	Labor	Panama Canal Commission compensation fund	5,511
208	91-0400[a]	Education	Vocational and adult education	5,443
209	12-2086[a]	Agriculture	Agricultural resource conservation demonstration guaranteed loan	5,195
210	46-9971	Appalachian Regional Commission	Miscellaneous trust funds	5,052
211	75-0391[a]	HHS	Indian health facilities	4,861

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
212	14-4410[b]	Interior	Indian loan guaranty and insurance fund	4,787
213	68-4310	EPA	Reregistration and expedited processing revolving fund	4,148
214	14-9926	Interior	Permanent operating funds	3,943
215	10-8122	The Judiciary	Judicial officers' retirement fund	3,898
216	13-4511	Commerce	Working capital fund	3,560
217	57-9982	DOD—Military	Department of the Air Force trust revolving funds	3,175
218	20-1860	Treasury	Interest on uninvested funds	3,142
219	95-8281	Barry Goldwater Scholarship	Scholarship and Excellence in Education Foundation	3,023
220	12-8232	Agriculture	Miscellaneous contributed funds	3,015
221	12-2082[a]	Agriculture	Rural development insurance fund program	2,990
222	75-9915[a]	HHS	National Institutes of Health	2,946
223	95-8296	Harry S Truman Scholarship Foundation	Memorial scholarship trust fund	2,894
224	12-1500[a]	Agriculture	Cooperative State Research Service	2,850
225	36-4014	VA	Canteen service revolving fund	2,793
226	67-8341	United States Information Agency	Foreign service national separation liability trust fund	2,534
227	14-5243	Interior	National forests fund, payment to states	2,359
228	00-0488	Legislative Branch	Congressional use of foreign currency, House of Representatives	2,316
229	89-5105	Energy	Payments to States under Federal Power Act	2,280
230	69-8149[a]	Transportation	Boat safety	2,150
231	97-5095	DOD—Civil	Wildlife conservation	2,147
232	12-8137	Agriculture	Expenses and refunds, inspection and grading of farm products	2,083
233	95-4039	Federal Housing Finance Board	Federal housing finance board	1,860
234	67-9971	United States Information Agency	Miscellaneous trust funds	1,832
235	10-0510[a]	The Judiciary	U.S. Court of Appeals for the Federal Circuit	1,714
236	57-8928	DOD—Military	The Air Force general gift fund	1,688
237	14-0667[b]	Interior	Loan program	1,633
238	10-0100[a]	The Judiciary	Supreme Court of the United States	1,601
239	10-5101	The Judiciary	Registry administration	1,528
240	74-8569	American Battle Monuments Commission	Contributions	1,522
241	14-8216	Interior	Contributed funds	1,466
242	14-5050	Interior	Operation and maintenance of quarters	1,466

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
243	47-5254	GSA	Disposal of surplus real and related personal property	1,435
244	20-4413	Treasury	Federal tax lien revolving fund	1,357
245	95-5026	Federal Financial Institutions Examination Council	Appraisal Subcommittee Registry fees	1,344
246	10-0400[a]	The Judiciary	Salaries and expenses	1,307
247	95-8282	James Madison Memorial Fellowship Foundation	Memorial Fellowship Trust Fund	1,298
248	75-0943[a]	HHS	Disease control, research, and training	1,277
249	14-5248	Interior	Leases of lands acquired for flood control, navigation, and allied purposes	1,230
250	19-9971	State	Miscellaneous trust funds	1,185
251	00-0188	Legislative Branch	Congressional use of foreign currency, Senate	1,133
252	80-8978	National Aeronautics and Space Administration	Science, space, and technology education trust fund	1,121
253	14-8287	Interior	Contributed funds	1,078
254	12-8203	Agriculture	Gifts and bequests	1,027
255	14-9924	Interior	Miscellaneous permanent appropriations	988
256	09-8270	Legislative Branch	Gifts and donations, National Commission on Children	977
257	97-4093	DOD—Military	William Langer jewel bearing plant revolving fund	894
258	11-9972	Funds Appropriated to the President	Peace Corps miscellaneous trust fund	888
259	20-0155	District of Columbia	Payment for water and sewer services	804
260	12-8210	Agriculture	Miscellaneous contributed funds	797
261	19-5151	State	International Center, Washington, D.C.	789
262	09-8300	Legislative Branch	Capitol Preservation Commission Trust Fund	766
263	14-8154	Interior	African elephant conservation fund	742
264	78-4132[a]	Farm Credit System Assistance Board	Revolving fund for administrative expenses	719
265	47-4540	GSA	Working capital fund	664
266	09-8275	Legislative Branch	John C. Stennis Center for Public Service Development trust fund	650
267	12-8412	Agriculture	Milk market orders assessment fund	554
268	19-0601[a]	State	Repatriation loans program	550
269	14-5241[a]	Interior	North American wetlands conservation fund	521
270	09-0500	Legislative Branch	International Conferences and Contingencies: House and Senate expenses	490
271	59-8050	National Endowment for the Humanities	Gifts and donations (humanities)	472

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
272	11-8240	Executive Office of the President	Gifts and Donations	464
273	86-5270	HUD	Interstate land sales	419
274	12-8227	Agriculture	Miscellaneous contributed funds	416
275	88-8127	National Archives and Records Administration	National archives gift fund	406
276	20-1710	Treasury	Payment of Government losses in shipment	390
277	36-4018	VA	Pershing Hall revolving fund	374
278	11-8345	Funds Appropriated to the President	Foreign service national separation liability trust fund	368
279	86-4041	HUD	Rental housing assistance fund	324
280	95-8025[a]	Japan-United States Friendship Commission	Japan-United States friendship trust fund	315
281	10-8124	The Judiciary	Claims court judges retirement fund	308
282	13-8501	Commerce	Gifts and bequests	301
283	59-8040	National Endowment for the Arts	Gifts and donations (arts)	287
284	14-4081[a]	Interior	Upper Colorado River Basin fund	287
285	25-4472	National Credit Union Administration	Community development credit union revolving loan fund	261
286	00-0215	Legislative Branch	Payments to widows and heirs of deceased members of Congress	259
287	12-8218	Agriculture	Miscellaneous contributed funds	257
288	26-0101	Federal Retirement Thrift Investment Board	Payment from the general fund	250
289	15-5089	Justice	Land border inspection fee	241
290	48-8338	Legislative Branch	United States Commission on Improving the Effectiveness of the United Nations	235
291	33-8190	Smithsonian Institution	Canal Zone biological area fund	228
292	55-8155	Advisory Commission on Intergovernmental Relations	Contributions	225
293	14-9922	Interior	Miscellaneous permanent appropriations (Other natural resources)	223
294	84-8463	DOD—Civil	Soldiers' and airmen's home revolving fund	216
295	11-0001	Executive Office of the President	Compensation of the President	209
296	21-9971	DOD—Military	The Army trust funds	198
297	48-8321	Federal-State Commission on Policies and Programs Affecting Alaska Natives	Policies and programs affecting Alaska natives trust fund	194
298	74-0100[a]	American Battle Monuments Commission	Salaries and expenses	187
299	12-5225	Agriculture	Pacific yew sales, Forest Service	181
300	86-5272	HUD	Office of federal housing enterprise oversight	165

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
301	72-8342	Funds Appropriated to the President	Foreign service national separation liability trust fund	164
302	00-4062	Legislative Branch	Senate gift shop revolving fund	161
303	69-9981	Transportation	Miscellaneous trust revolving funds	147
304	23-8115	Legislative Branch	Tax Court judges survivors annuity fund	133
305	00-0115	Legislative Branch	Payments to widows and heirs of deceased members of Congress	130
306	58-4235	FEMA	National insurance development fund	112
307	03-8339	Legislative Branch	Foreign service national separation liability trust fund	104
308	48-1800	International Cultural and Trade Center Commission	Salaries and expenses	94
309	69-5282[a]	Transportation	Emergency preparedness grants	66
310	69-8533	Transportation	Coast Guard general gift fund	63
311	20-8790	Treasury	Gifts and bequests	57
312	75-9911[a]	HHS	Salaries and expenses	55
313	73-8466	SBA	Business assistance trust fund	52
314	12-1231[a]	Agriculture	Rural Telephone Bank program	52
315	16-8131	Labor	Gifts and bequests	49
316	95-8280	Administrative Conference of the United States	Gifts and bequests	41
317	69-8547	Transportation	Special studies, services and projects	41
318	76-8187	Christopher Columbus Fellowship Foundation	Christopher Columbus Fellowship Foundation	41
319	20-4521	Treasury	Federal Financing Bank	41
320	20-9971	Treasury	Miscellaneous trust funds (Other veterans benefits and services)	38
321	09-8292	Legislative Branch	Botanic Garden: Gifts and donations	38
322	69-1399	Transportation	Aircraft purchase loan guarantee program	36
323	12-0300[a]	Agriculture	National Agricultural Library	34
324	36-1024[a]	VA	Direct loan program	32
325	19-5121	State	Fishermen's guaranty fund	30
326	95-9971	National Commission on Libraries and Information Science	Contributions	30
327	69-8548	Transportation	Gifts and bequests	28
328	00-4006	Legislative Branch	Beauty shop (revolving fund)	28
329	69-5168	Transportation	Pollution fund	27
330	03-5075	Legislative Branch	Oliver Wendell Holmes devise fund	25
331	12-2069[a]	Agriculture	Rural development loan fund	24

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
332	76-8095	Christopher Columbus Quincentennary	Jubilee Commission gifts and donations	24
333	14-5055	Interior	Operation and maintenance of quarters	13
334	95-8077	National Council on Disability	Gifts and Donations	11
335	14-8562	Interior	Contributed funds	11
336	75-5734	HHS	Payments to states from receipts for child support	10
337	23-5023	Legislative Branch	Tax courts independent counsel, U.S. Tax Court	9
338	11-8244	FEMA	Bequests and gifts	7
339	95-8268	Preservation of America's Heritage Abroad	Commission gifts and donations	6
340	05-8269	Legislative Branch	Contributions	5
341	97-4965	DOD—Military	Emergency response fund	4
342	95-8294	National Advisory Council on the Public Service	Gifts and Donations	4
343	09-8094	Legislative Branch	Contributions and donations	3
344	11-8241	Executive Office of the President	Donations for the Official Residence of the Vice President	3
345	59-8080	Institute of Museum Services	Gifts and Donations	2
346	14-8366	Interior	Cooperative fund	2
347	58-8200	FEMA	Gift and bequests, fire administration	1
348	47-8198	GSA	Unconditional gifts of real, personal, or other property	(1)
349	10-8123	The Judiciary	Gifts and donations, Judicial Center Foundation	(1)
350	00-4007	Legislative Branch	House barber shops (revolving fund)	(2)
351	86-4040	HUD	Community disposal operations fund	(2)
352	12-3108[a]	Agriculture	Economic development loans program	(3)
353	36-8129	VA	National cemetery gift fund	(6)
354	89-0206	Energy	Geothermal resources development fund	(12)
355	91-8258	Education	Contributions	(14)
356	17-9981	DOD—Military	Department of the Navy trust revolving funds	(17)
357	97-0030	DOD—Civil	Retired pay, Defense	(33)
358	24-8445	OPM	Retired employees health benefits fund	(58)
359	00-4011	Legislative Branch	Page residence hall and meal plan	(79)
360	01-4200	Legislative Branch	House of Representatives gymnasium	(134)
361	00-4003	Legislative Branch	House of Representatives restaurant revolving fund	(191)
362	12-3104	Agriculture	Rural economic development grants	(192)

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
363	86-4042[b]	HUD	Nonprofit sponsor assistance	(212)
364	69-8503	Transportation	Gifts and bequests	(231)
365	13-8344	Commerce	Foreign service national separation liability trust fund	(300)
366	12-4142	Agriculture	Rural communication development fund	(305)
367	00-4004	Legislative Branch	Recording studio (revolving fund)	(320)
368	95-3400	Legislative Branch	Prospective Payment Assessment Commission	(323)
369	45-4019	Equal Employment Opportunity Commission	Education, technical assistance, and training revolving fund	(360)
370	36-4048	VA	Special therapeutic and rehabilitation activities fund	(437)
371	72-4275	Funds Appropriated to the President	Property management fund	(465)
372	68-4311	EPA	Revolving fund for certification and other services	(489)
373	12-4222[b]	Agriculture	Self-help housing land development fund	(519)
374	00-0440	Legislative Branch	Stationery (revolving fund)	(527)
375	88-8436	National Archives and Records Administration	National Archives trust fund	(749)
376	13-4406[b]	Commerce	Economic development revolving fund	(800)
377	75-4309	HHS	Revolving fund for certification and other services	(867)
378	13-4417[b]	Commerce	Federal ship financing fund, fishing vessels	(970)
379	36-4118[b]	VA	Education loan fund	(1,352)
380	11-3963	Executive Office of the President	Management fund, Office of Environmental Quality	(1,568)
381	14-4523	Interior	Working capital fund	(1,744)
382	12-4050	Agriculture	Inspection and weighing services	(1,831)
383	69-4089	Transportation	Saint Lawrence Seaway Development Corporation	(2,831)
384	91-0240	Education	Higher education facilities loans	(2,976)
385	14-4556	Interior	Working capital fund	(3,041)
386	72-4341[b]	Funds Appropriated to the President	Private sector revolving fund	(3,299)
387	86-4016	HUD	Management and liquidating functions fund	(4,176)
388	25-4056	National Credit Union Administration	Operating fund	(4,911)
389	36-4012	VA	Service-disabled veterans insurance fund	(5,402)
390	75-9931	HHS	Health loan funds	(5,663)
391	86-4043	HUD	Homeownership assistance fund	(6,051)
392	15-8408	Justice	Commissary funds, Federal prisons (trust revolving fund)	(6,733)

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
393	36-0200	VA	Reinstated entitlement program for survivors under Public Law 97-377	(7,366)
394	36-4024[b]	VA	Direct loan revolving fund	(7,566)
395	75-4420	HHS	Health maintenance organization loan and loan guarantee fund	(7,760)
396	13-4313[a]	Commerce	Coastal zone management fund	(7,800)
397	75-4503	HHS	Working capital fund	(7,831)
398	36-4010	VA	Veterans reopened insurance fund	(7,864)
399	69-4411[b]	Transportation	Railroad rehabilitation and improvement	(8,767)
400	14-4053	Interior	Helium fund	(9,941)
401	97-8164	DOD—Military	Surcharge collections, sales of commissary stores	(9,974)
402	69-4520	Transportation	Working capital fund	(10,766)
403	14-4409[b]	Interior	Revolving fund for loans	(18,006)
404	14-4079[a]	Interior	Lower Colorado River Basin development fund	(18,683)
405	71-4030[b]	Funds Appropriated to the President	Overseas Private Investment Corporation	(20,188)
406	15-4500[a]	Justice	Federal prison industries, incorporated	(22,443)
407	36-4537	VA	Supply fund	(24,449)
408	12-4605	Agriculture	Working capital fund	(26,650)
409	20-8413	Treasury	Assessment funds	(29,117)
410	47-4530	GSA	General supply fund	(33,614)
411	04-4505	Legislative Branch	Government Printing Office revolving fund	(37,173)
412	78-4131[a]	Farm Credit Administration	Revolving fund for administrative expenses	(37,203)
413	20-4504	Treasury	Numismatic public enterprise fund	(38,920)
414	91-4250	Education	College housing loans	(41,607)
415	86-4097[b]	HUD	Community development guaranteed loans	(44,140)
416	36-8455	VA	Veterans special life insurance fund	(55,903)
417	97-4950	DOD—Military	Pentagon reservation maintenance revolving fund	(58,878)
418	58-4232[b]	FEMA	Disaster assistance direct loan	(78,262)
419	78-4171	Farm Credit System Insurance Corporation	Farm credit system insurance fund	(92,670)
420	69-4301[b]	Transportation	Federal ship financing fund	(95,253)
421	78-4134[b]	Farm Credit System Financial Assistance Corporation	Financial assistance corporation assistance fund	(102,070)
422	25-4468	National Credit Union Administration	Credit union share insurance fund	(367,337)
423	73-4153[b]	SBA	Disaster loan fund	(386,461)
424	11-4103[b]	Funds Appropriated to the President	Economic assistance loans	(422,244)

(continued)

No.	Code	Department	Account title	Fiscal year 1993 net outlays (Dollars in thousands)
425	86-4238[b]	HUD	Guarantees of mortgage-backed securities	(460,413)
426	95-4054	United States Enrichment Corporation Fund	United States Enrichment Corporation Fund	(554,374)
427	12-2274[b]	Agriculture	Expenses, Public Law 480, foreign assistance programs	(629,109)
428	24-8440[a]	OPM	Employee Health Benefits fund	(908,189)
429	51-4066	FDIC	Savings association insurance fund	(943,490)
430	83-4027[b]	Export-Import Bank of the United States	Export-Import Bank of the United States	(957,888)
431	24-8424[a]	OPM	Employee life insurance fund	(1,087,914)
432	20-4444	Treasury	Exchange stabilization fund	(1,379,266)
433	12-4230[b]	Agriculture	Rural electrification and telephone revolving fund	(1,408,540)
434	16-4204[a]	Labor	Pension Benefit Guaranty Corporation	(1,541,680)
435	51-4064	FDIC	Bank Insurance Fund	(9,834,057)
436	22-4055	Resolution Trust Corporation	RTC revolving fund	(19,182,752)

Source: OMB's Budget Preparation System for Fiscal Year 1995.

[a] Account contains both mandatory and discretionary spending. The net outlays shown represent the mandatory spending portion only.

[b] Account is a liquidating account, which includes all cash flows to and from the government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991.

Legal Issues Associated With Capping Mandatory Spending

This appendix discusses two fundamental legal questions raised by proposals to cap mandatory spending programs: (1) whether Congress has the authority to cap such spending and (2) whether Congress can delegate its authority to implement its decisions. This appendix also discusses the procedures required by the due process clause.

Congressional Authority to Modify or Alter Statutory Entitlements

A typical entitlement statute establishes program benefits, qualification criteria for beneficiaries, and implementing structure and procedures. Congress funds the benefit payments through either annual or permanent appropriations. Once a beneficiary qualifies under an entitlement statute, he or she is "entitled" to the appropriate benefits and the government is obligated to pay such benefits. However, entitlement statutes may be amended through capping legislation clearly evidencing a congressional intent to modify statutory benefits in order to contribute to deficit reduction efforts. Under our structure of government, it is the function of the legislative branch to establish spending priorities and policies and, with relation to entitlement programs, to "reconcile the demands of . . . needy citizens with the finite resources available to meet those demands." Bowen v. Gilliard, 483 U.S. 587, 596 (1987)(quoting Dandridge v. Williams, 397 U.S. 471 (1970)). The Supreme Court has explained this legislative power, in the context of the limits of its judicial review, as follows:

> "Unless the Legislative Branch's decisions run afoul of some constitutional edict, any inequities created by such decisions must be remedied by the democratic processes. . . 'Governmental decisions to spend money to improve the general public welfare in one way and not another are "not confided to the courts. The discretion belongs to Congress unless the choice is clearly wrong, a display of arbitrary power, not an exercise of judgment". . . . This standard of review is premised on Congress' 'plenary power to define the scope and the duration of the entitlement to ... benefits, and to increase, to decrease, or to terminate those benefits based on its appraisal of the relative importance of the recipients' needs and the resources available to fund the program.'"

Bowen, 483 U.S. at 597-598 (citations omitted); see also Fleming v. Nestor, 363 U.S. 603, 610 (1960)(social security benefits not vested in a property sense but subject to defeasance by an act of Congress); Guarino v. Celebrezze, 336 F.2d 336, 338 (3rd Cir. 1964). Thus, as a general proposition, what Congress creates by statute, Congress is free to subsequently change by either modifying, amending or repealing the underlying laws establishing the benefits.

This is not to say, however, that Congress may exercise its power to modify a statutory scheme free of all restraints. Challenges to Congress' authority to cap benefits have typically focused on a number of legal issues such as the underlying constitutional authority of Congress to reduce or eliminate entitlements, as well as constitutional limitations on the delegation of legislative powers and assertions that benefits constitute contractual rights.

Congressional authority could be questioned under what has been termed "substantive due process," which flows from the Fifth Amendment provision that the government may not deprive any person of "life, liberty, or property without due process of law". Substantive due process involves the reasonableness of a statute in relation to the government's power to enact such legislation. For all cases other than interstate travel, privacy, voting, or First Amendment rights, the courts have held that a legislative act does not violate due process if it rationally relates to any possible legitimate end of government. Unless it is arbitrary or irrational, legislative action under this standard will be upheld. The Supreme Court has established that legislative acts adjusting the burdens of economic life are presumed to be constitutional and the burden is on the one complaining of a due process violation to establish that the legislature has acted in an arbitrary or irrational manner. PBGC v. R.A. Gray & Co., 467 U.S. 717, 729 (1984).

The Supreme Court has also held that Congress never guaranteed any specific level of benefits under several benefit statutes. see, e.g., U.S. Railroad Retirement Board v. Fritz, 449 U.S. 166 (1980) (Railroad Retirement Act); Richardson v. Belcher, 404 U.S. 78 (1971) (Social Security Act); United States v. Teller, 107 U.S. 64 (1882) (veterans' pensions); see also National Treasury Employees Union v. Devine, 591 F. Supp. 1143 (1984) (federal retirees' cost of living increases). Under this standard, it would not be difficult for Congress to rationally justify, based on economic necessity for example, a modification of an entitlement or benefit program through a cap mechanism.

Another legal challenge to congressional action to reduce a statutory entitlement based on a "contractual right" to benefits has not received much support in the courts. For example, the courts have held that there is no contractual right to federal retirement benefits and Congress may modify the benefits upwards or downwards subject only to the due process limitation against arbitrary legislative actions. Zucker v. United States, 578 F. Supp. 1239 (S.D.N.Y. 1984), aff'd, 758 F.2d 637 (Fed. Cir.

1985), cert. denied, 474 U.S. 842 (1985)(federal employees serve under appointments and their rights and benefits are determined by statute). This holding has been applied to other public benefits. See Richardson, 404 U.S. 78 (expectations of benefits under the Social Security Act do not confer contractual rights to receive expected amounts).

Delegation of Legislative Powers

Most capping proposals do not specifically amend in detail the eligibility criteria underlying mandatory programs. Rather they delegate, either explicitly or implicitly, the authority to determine and implement program changes and reductions to the agencies responsible for the programs. Thus, the question is not whether Congress may modify a benefit program, since it may; rather the legal question, in this context, is to what extent Congress can delegate to the respective agencies the power to implement program changes to effectuate a cap modifying the underlying entitlement. As explained below, congressional delegations to agencies have generally been upheld by the courts where Congress has constrained agency discretion with "intelligible principles."

The constitutional precept which seeks to limit delegations of legislative powers is rooted in the principle of separation of powers. The Constitution vests all legislative powers in the Congress' and the Supreme Court has long held that in order to maintain the integrity of our system of government, Congress generally cannot delegate its legislative power to another branch of government. Mistretta v. U.S., 488 U.S. 361, 372 (1989).

However, the Court has recognized that the nondelegation doctrine does not prevent Congress from obtaining the assistance of its coordinate branches. Id. So long as Congress lays down by legislative act an "intelligible principle" to which the person or body authorized to exercise the delegated authority is directed to conform, such legislative action is not a forbidden delegation of legislative power. J.W. Hampton, Jr. & Co. v. U.S., 276 U.S. 394, 409 (1928). Thus, the Court has deemed it constitutionally sufficient if Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of the delegated authority. American Power & Light Co. v. SEC, 329 U.S. 90, 105 (1946).

The Court has held a delegation of legislative power unconstitutional when Congress failed to articulate any policy or standard. In A.L.A. Schechter Poultry Corp. v. U.S., 295 U.S. 495 (1935), the Court struck down the National Industrial Recovery Act which delegated to the President virtually unrestricted power to essentially plan the national economy. The Court held that the Congress had failed to articulate any policy or standard that would serve to confine the discretion of the authorities to whom Congress had delegated power. Thus, the act provided the President with unfettered power to approve and prescribe codes (thus enacting laws) for trade and industry. Id. at 541-542. This was deemed a delegation without any defining limits on executive branch discretion and thus an unconstitutional delegation of legislative power.

Congress will often explicitly authorize an agency to issue rules and regulations necessary for proper implementation of a statute. Even where no such explicit delegation of authority is made, Congress may nevertheless delegate authority to an agency to "fill in the gaps". A significant judicial discussion of the boundaries of agency discretion in delegation cases is found in Chevron U.S.A., Inc. v. National Resources Defense Council, Inc., 467 U.S. 837 (1984). The Supreme Court explained that "the power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress." Id. at 843. If Congress has explicitly left a gap for an agency to fill, there is necessarily a delegation of authority to the agency to elucidate a specific provision of a statute by regulation. Id. at 843-844.

Such legislative regulations are given controlling weight unless arbitrary, capricious or manifestly contrary to the statute. Id. at 844. In other words, when Congress has delegated this authority, a court may not substitute its own construction of a statutory provision for a "reasonable interpretation" made by the agency. Thus, under Chevron, federal courts will give considerable weight to executive departments' construction of the statutory scheme entrusted to them. Id. at 843; [1] see also St. Francis Hospital Center v. Heckler, 714 F.2d 872 (7th Cir. 1983)(in construing Medicare statute a court should give deference to agency charged with administering the statute). But see Gardner v. Brown, 5 F.3d 1456 (Fed. Cir. 1993) (Congress left no gaps in the statutory language therefore no deference was due to Veterans Affairs Department interpretation).

The courts will strain to harmonize the cap and the underlying authorizing statute, seeking an intermesh of the measures that provides maximum

[1] To the extent an agency is asking a federal court to defer to its construction of a statute, the federal courts may also look to other factors: Has the agency's interpretation of a statute been consistent over time? Morton v. Ruiz, 415 U.S. 199, 237 (1974). Does the agency have particular expertise in the subject matter at issue? Aluminum Co. of America et al. v. Central Lincoln Peoples' Utility District, 467 U.S. 380, 390 (1984). Has the agency made a well reasoned interpretation of the statute which it is charged with implementing? Arkansas Power and Light v. I.C.C., 725 F.2d 716, 723 (1984). Did the administrative agency participate in the drafting process? U.S. v. Moore, 95 U.S. 760, 763 (1877).

possible respect for and application of both measures. See City of Los Angeles v. Adams, 556 F.2d 40, 49-50 (D.C. Cir. 1977) (apportionment of airport development grants in light of reduced funding); see also Suwannee River Finance Inc. v. U.S., 7 Cl. Ct. 556 (1985); Dubrow v. SBA, 345 F. Supp. 4 (C.D. Cal. 1972). In the Los Angeles case, the court rejected the Federal Aviation Administration's (FAA) attempt to substitute an administrative prioritization of airport projects for the statutory apportionment formula. Instead of the FAA's prioritization determination, which was, in effect, an eligibility determination based on several factors, the court held that FAA was required to allocate the money available to it on a pro rata basis in accordance with the statutory formula. Id. at 51. The court captured the time-honored principle of construction in the following passage:

> "When Congress modifies a statute by an appropriations measure, or any other amendment, the agency administering the statute is required to effectuate the original statutory scheme as much as possible, within the limits of the added constraint."

Id. at 50.

Due Process Requirements

Finally, agency implementation of a capping mechanism arguably could implicate Fifth Amendment procedural due process concerns. Procedural due process requires some type of opportunity to be heard before an individual is deprived of a statutory entitlement. Mathews v. Eldridge, 424 U.S. 319, 333 (1976).

Procedural due process is triggered by a person's statutory entitlement to a benefit. Briefly, when considering what qualifies as protectable under the clause, courts, prior to 1970, distinguished between "rights" and "privileges". Goldberg v. Kelly, 397 U.S. 254, 262 (1970). The latter were considered government "largesse," a "gratuity" furnished by the government which the government could withhold, grant or revoke at its pleasure. Beginning in 1970 the Supreme Court rejected this distinction when it held that governmental benefits to which recipients have a "statutory entitlement," at least those providing the means to obtain essential food, clothing, housing and medical care, may not be discontinued or altered without some form of due process. Id. at 264.

Goldberg recognized that statutory governmental benefits are more than a privilege or gratuity. Benefits are "statutory entitlements" to eligible recipients and the government does not have the power to remove the benefit without affording at least some procedural due process. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. Mathews, 424 U.S. at 333. Due process provides an opportunity for an individual to present evidence that a denial or reduction in benefits was improperly applied to that individual. The question of what procedure is required is a matter of degree, depending upon the nature of the benefits and the meaningfulness of an opportunity for the beneficiary to be heard. Due process can range from notice of a change in benefits to a hearing. Consequently, this issue is unlikely to arise in the context of a general reduction in benefit levels unrelated to whether a particular individual meets eligibility criteria.[2]

[2] A legitimate claim of entitlement to a government benefit does not transform the benefit itself into a vested property right for purposes of the Fifth Amendment's just compensation clause. Kizas v. Webster, 707 F.2d 524, 539 (1983), cert. denied, 464 U.S. 1042 (1984)(legitimate claim of entitlement to federal employee retirement benefits might create a due process guarantee, but does not necessarily rise to the level of property protected by takings clause). Rather, due process property interests in public benefits are limited as a general rule by the governmental power to remove, through prescribed procedures, the underlying source of those benefits. Id. at 539.

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