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Suspension of Budget Enforcement Procedures During Low Economic Growth

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Robert Keith
Specialist in American National Government
Government and Finance Division

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Suspension of Budget Enforcement Procedures During Low Economic Growth

Summary

On April 30, 2008, the Bureau of Economic Analysis of the Department of Commerce announced that two consecutive quarters of less than 1% growth in the Gross Domestic Product (GDP) recently had occurred (0.6% growth for both the fourth quarter of 2007 and the first quarter of 2008).

In the past, the principal budget enforcement laws provided for the suspension of selected budget enforcement procedures because of low economic growth (e.g., at least two consecutive quarters of GDP growth below 1% or negative growth) or war. With regard to low economic growth, a suspension procedure set forth in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, would have been triggered automatically by the issuance of a "low-growth report" by the Congressional Budget Office (CBO). Under the suspension procedure, certain budget enforcement procedures would have been suspended if Congress and the President enacted a "suspension resolution." Action on a suspension was required in the Senate but was optional in the House.

During the years that these suspension provisions were available, the United States was in a period of sustained low economic growth only twice — in late 1990/early 1991 and in late 2001/early 2002. CBO issued low-growth reports three times in 1991, but in each instance a measure to suspend enforcement procedures was defeated in the Senate by a wide margin.

More recently, CBO issued low-growth reports on October 31, 2001, and on January 30, 2002. In each instance, the Senate Budget Committee reported unfavorably a suspension resolution that subsequently was defeated on the floor. The Senate rejected S.J.Res. 28 on November 13, 2001, by a vote of 1-99, and rejected S.J.Res. 31 on February 14, 2002, by voice vote. No suspension resolutions were enacted, although the Senate considered (and rejected) a total of five such measures in the 102nd and 107th Congresses.

The House did not consider any suspension resolutions under this procedure.

In 2008, any determination by CBO of low economic growth would not lead to the issuance of a low-growth report by the agency, or House or Senate consideration of a suspension resolution, because the suspension procedure in the 1985 Balanced Budget Act expired on September 30, 2006. While this procedure no longer may be used to suspend budget enforcement procedures, the House and Senate may employ other common techniques to waive the procedures on a bill-by-bill basis. On February 13, 2008, for example, President George W. Bush signed the Economic Stimulus Act of 2008 (P.L. 110-185) into law; the act increases the deficits for FY2008 and FY2009 by a total of $168 billion. The House passed the bill on January 29, 2008, under the "suspension of the rules procedure" (which requires a two-thirds affirmative vote), by a vote of 385-35. The Senate passed the measure on February 6, 2008, employing various procedural devices to expedite its consideration and including a waiver of budget enforcement rules in Section 301 of the act.

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Introduction

On April 30, 2008, the Bureau of Economic Analysis of the Department of Commerce announced that two consecutive quarters of less than 1% growth in the Gross Domestic Product (GDP) recently had occurred (0.6% growth for both the fourth quarter of 2007 and the first quarter of 2008).[1] The announcement confirmed an economic downturn that had prompted Congress and the President to enact stimulus legislation on February 13, 2008 (P.L. 110-185, the Economic Stimulus Act of 2008), and Congress to consider additional stimulus proposals.

In the past, the principal budget enforcement laws provided for the suspension of selected budget enforcement procedures because of low economic growth (e.g., at least two consecutive quarters of GDP growth below 1% or negative growth) or war. In the case of war, certain enforcement procedures would have been suspended automatically upon the enactment of a declaration of war.[2] With regard to low economic growth, a suspension procedure set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 would have been triggered automatically by the issuance of a "low-growth report" by the Congressional Budget Office (CBO). Under the suspension procedure, certain budget enforcement procedures would have been suspended if Congress and the President enacted a "suspension resolution." Action on a suspension was required in the Senate but was optional in the House.

The last two instances during which the United States was in a period of sustained low economic growth occurred toward the end of calendar year 1990 and the beginning of calendar year 1991, and toward the end of calendar year 2001 and the beginning of calendar year 2002. In those two instances, the suspension procedure in the 1985 Balanced Budget Act was activated. No suspension resolutions were enacted, although the Senate considered (and rejected) a total of five such measures in the 102nd and 107th Congresses.

In 2008, any determination by CBO of low economic growth would not lead to the issuance of a low-growth report by the agency, or House or Senate consideration

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[1] Department of Commerce, Bureau of Economic Analysis, "Gross Domestic Product: First Quarter 2008 (Advance)," News Release BEA 08-18, April 30, 2008, available at [http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm].

[2] Some enforcement procedures still are suspended automatically under current law upon the enactment of a declaration of war, while the authority to suspend certain other enforcement procedures has expired. For more information, see CRS Report RS20182, *Suspension of Budget Enforcement Procedures During Hostilities Abroad*, by Robert Keith.

of a suspension resolution, because the suspension procedure in the 1985 Balanced Budget Act expired on September 30, 2006. While this procedure no longer may be used to suspend budget enforcement procedures, the House and Senate may employ other common techniques to waive the procedures on a bill-by-bill basis. On February 13, 2008, for example, President George W. Bush signed the Economic Stimulus Act of 2008 (P.L. 110-185) into law; the act increases the deficits for FY2008 and FY2009 by a total of $168 billion.[3] The House passed the bill on January 29, 2008 under the "suspension of the rules procedure" (which requires a two-thirds affirmative vote), by a vote of 385-35. By securing more than the necessary two-thirds vote, the House effectively waived any budget enforcement procedures that could have impeded consideration of the measure. The Senate passed the measure on February 6, 2008, employing various procedural devices to expedite its consideration (such as a unanimous consent agreement regarding the motion to proceed to consideration of the bill) and a waiver of budget enforcement rules by means of an emergency designation in Section 301 of the act.[4]

This report provides information on budget enforcement procedures in effect through September 30, 2006, the means for suspending them due to low economic growth, and the historical record regarding this matter.

Budget Enforcement Procedures

In past years, federal budget policies have been enforced under two major statutes — the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.[5] Budget enforcement procedures under the 1974 Congressional Budget Act are, for the most part, permanent and ongoing, whereas the key budget enforcement procedures under the 1985 Balanced Budget Act effectively expired in late 2002.[6] While several efforts have been made to extend the procedures under the 1985 Balanced Budget Act, they have not been successful.

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[3] Joint Committee on Taxation, "Estimated Budget Effects of the 'Economic Stimulus Act of 2008,' As Passed by the House of Representatives and the Senate on February 7, 2008, JCX-17-08, February 8, 2008.

[4] Section 301 of the act (122 Stat. 622) states: "For purposes of Senate enforcement, all provisions of this Act are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S.Con.Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008."

[5] These statutes have been amended several times over the years by such laws as the Budget Enforcement Act of 1990, the Unfunded Mandates Reform Act of 1995, the Budget Enforcement Act of 1997, and the Transportation Equity Act for the 21st Century. For more information on these statutes and their subsequent amendment, see CRS Report RL30795, *General Management Laws: A Compendium,* Clinton T. Brass, Coordinator.

[6] The discretionary spending limits expired on September 30, 2002, and the "pay-as-you-go" (PAYGO) requirement effectively was terminated in December 2002 (see CRS Report RS21378, *Termination of the "Pay-As-You-Go" (PAYGO) Requirement for FY2003 and Later Years*, by Robert Keith). Certain other procedures under the 1985 Balanced Budget Act remained in effect until September 30, 2006.

Congressional Budget Act of 1974

The 1974 Congressional Budget Act (Title I-IX of P.L. 93-344, as amended) provides for the adoption by Congress of an annual concurrent resolution on the budget. The budget resolution recommends the total level of revenues, spending, the surplus or deficit, and the public debt for each year covering at least a five-year period. Spending for each fiscal year is distributed among the functional categories of the budget, such as national defense, agriculture, and transportation. In addition, total spending is allocated to each of the House and Senate committees with jurisdiction over discretionary or direct spending; the House and Senate Appropriations Committees subdivide their spending allocations by subcommittee.

If the House and Senate wish to compel their committees to develop legislation conforming existing revenue, direct spending, or debt-limit law to budget resolution policies, they may include reconciliation directives in the budget resolution so instructing the appropriate committees. Reconciliation submissions from committees usually are consolidated into an omnibus bill that is considered under expedited procedures.

Enforcement of budget resolution policies occurs as individual revenue and spending measures, including any required reconciliation legislation, are considered. Points of order established in different provisions of the 1974 Congressional Budget Act allow Members to object to legislation that would violate budget resolution policies, unless the points of order are waived or set aside.[7]

Balanced Budget and Emergency Deficit Control Act of 1985

The 1985 Balanced Budget Act (Title II of P.L. 99-177, as amended by the Budget Enforcement Act of 1990 and other laws), established adjustable limits on discretionary spending and subjected direct spending and revenue legislation to a "pay-as-you-go" (PAYGO) requirement. Under the PAYGO requirement, direct spending and revenue legislation enacted for a fiscal year could not, in the net, incur a deficit on a multiyear PAYGO "scorecard."

The discretionary spending limits and PAYGO requirement were enforced by sequestration, a procedure involving largely across-the-board spending cuts in nonexempt programs.[8] Sequestration was triggered shortly after the end of a congressional session if the director of the Office of Management and Budget (OMB) estimated in a sequestration report that one or more of the discretionary spending categories would be breached or the PAYGO requirement would be violated. Section 254 of the 1985 Balanced Budget Act required the President to issue a sequestration order carrying out any spending reductions identified by the OMB director as being necessary to eliminate a spending limit breach or a PAYGO violation.

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[7] For more information on points of order under the 1974 act, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[8] A more detailed explanation of sequestration is presented in CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith .

Suspension of Procedures

Budget enforcement procedures under the 1974 and 1985 acts generally have tended over the years to restrict the consideration of legislation that would create or worsen a deficit. In times of economic downturn, such as a recession or "low growth," the federal government may wish to pursue a stimulative fiscal policy entailing increases in spending or reductions in revenue. Some anti-recessionary features of the federal budget are automatic due to the design of permanent laws (e.g., spending for unemployment compensation and welfare benefits rise and payroll tax revenues fall as workers lose their jobs), but Congress may choose to augment these features by enacting legislation to further increase spending or cut taxes. The suspension procedures discussed here are intended to allow Congress to set aside in a single action key procedural roadblocks that could stymie the quick enactment of spending and revenue legislation needed to deal with a serious economic downturn.

Five budget enforcement procedures in the 1974 and 1985 acts were subject to suspension due to low economic growth (see **Table 1**). Suspension would have occurred upon the issuance of a low-growth report by CBO and the subsequent enactment into law of a suspension resolution pursuant to Section 258 of the 1985 Balanced Budget Act.[9] Section 258(a) provided for the development and consideration of a suspension resolution; Section 258(b) indicated the specific budget enforcement procedures suspended upon the enactment of a suspension resolution; and Section 258(c) provided for the restoration of the procedures.

Four of the mechanisms involved points of order under the congressional budget process against legislation that violated: (1) the spending ceilings or revenue floors in the budget resolution and, in the Senate only, Social Security surpluses or deficits; (2) committee allocations and subdivisions of spending made under the budget resolution; (3) a deficit-neutral requirement for amendments offered to reconciliation bills; and (4) in the Senate only, the discretionary spending limits established under statute.

These four point-of-order provisions form the core of substantive enforcement of the budget resolution. Nonetheless, there are many other points of order established under the 1974 act and their operation is unaffected by a determination of low economic growth. Some of these points of order pertain to timing or jurisdictional issues (e.g., Section 303(a) bars the consideration of spending or revenue legislation for a fiscal year until the budget resolution for that fiscal year has been adopted, and Section 306 bars the consideration of legislation changing the budget process unless it has been reported or discharged from the Budget Committee), but some also deal with substantive enforcement issues. In addition,

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[9] The current section originated as Section 254 of the 1985 act (99 *Stat*. 1078-1080) and was renumbered and modified by Section 13101(f) of the Budget Enforcement Act of 1990 (104 *Stat*. 1388-593 through 595). It is codified at 2 *U.S.C.* 907a. In its original form, the section also provided for the suspension of point-of-order provisions in Section 301(i) and 304(b) of the 1974 act. However, these point-of-order provisions later were dropped from the 1974 act and the reference to them in the suspension procedures was dropped as well.

budget enforcement procedures, such as the Senate's PAYGO rule, may be included in annual budget resolutions.

The fifth procedural mechanism subject to suspension during a period of low economic growth was the sequestration process under the 1985 Balanced Budget Act, which enforced the discretionary spending limits and the statutory PAYGO requirement.

Table 1. Budget Enforcement Mechanisms Subject to Suspension Due to Low Economic Growth

	Requirement	Source
1	Cost of legislation may not exceed committee allocations and subdivisions of spending under the budget resolution	Section 302(f) of the 1974 Congressional Budget Act
2	Amendments to reconciliation measures must be deficit-neutral	Section 310(d) of the 1974 Congressional Budget Act
3	Cost of legislation may not violate spending ceilings or revenue floors in the budget resolution and, in the Senate only, Social Security surpluses or deficits	Section 311(a) of the 1974 Congressional Budget Act
4	Cost of legislation, in the Senate only, may not exceed the discretionary spending limits established under statute	Section 312(b) of the 1974 Congressional Budget Act
5	A presidential sequestration order (providing for largely across-the-board spending cuts in nonexempt programs) must be issued if annual appropriations exceed the statutory limits on discretionary spending or the net effect of direct spending and revenue legislation enacted for the fiscal year leads to a deficit on the PAYGO scorecard	Section 254 of the 1985 Balanced Budget Act

CBO Low-Growth Report

Under Section 258 of the 1985 Balanced Budget Act, the responsibility for notifying Congress of actual or estimated low economic growth rested with CBO. Specifically, CBO was required to inform Congress if actual real economic growth was less than 1% or estimated real economic growth was projected to be negative.

Under Section 254 (I)[10] of the 1985 Balanced Budget Act, CBO was required to notify Congress "at any time" if either of two situations occurred: (1) CBO or OMB estimated two consecutive quarters of real economic growth (i.e., economic growth adjusted to remove the effects of inflation) less than zero during the six-quarter period consisting of the most recently completed quarter, the current quarter, and the four ensuing quarters; or (2) the Commerce Department indicated (in its advance, preliminary, or final reports of actual real economic growth) that real economic growth was less than 1% for the most recently reported quarter and the quarter before that. Consequently, any one of three different agencies could have prepared determinations of low economic growth, but it was CBO's responsibility alone to transmit that information to Congress for purposes of triggering a suspension resolution.

Section 254 (I) was silent regarding the form of the CBO notification. In the past, it had taken the form of a letter from the CBO director to the Speaker of the House and the President of the Senate. The CBO low-growth report sometimes was inserted the into the *Congressional Record* by the Senate majority leader upon his introduction of a suspension resolution and sometimes has been printed as a House document.

Suspension Resolution

Section 258(a) of the 1985 act set forth procedures for the development and consideration of a suspension resolution.

The issuance of a low-growth report by CBO triggered the introduction of a suspension resolution. The Senate majority leader was required to introduce the legislation, but such action was optional for the House majority leader. A suspension resolution had to be drafted in accordance with the form prescribed in Section 258(a)(2). The box below provides an example of the text of a suspension resolution.

Upon its introduction by the majority leader, a suspension resolution was referred in the Senate to the Budget Committee and in the House to the "appropriate committees" (which presumably could have included the Budget and Rules Committees). The committees had to report the resolution to their respective Houses within five days, without amendment. If a committee did not report a suspension resolution within five days, it was automatically discharged and the resolution was placed on the appropriate calendar.

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[10] Section 258 mistakenly referred to a CBO low-growth report issued under Section 254(j) of the 1985 act, not Section 254(I). Section 254(j) formerly dealt with CBO low-growth reports, but Section 10206 of the Budget Enforcement Act of 1997 (111 *Stat*. 704) renumbered the paragraphs in Section 254 without also changing the reference in Section 258 to be consistent. The revised Section 254(j) dealt with OMB's use of economic and technical assumptions in sequestration reports.

Example of a Suspension Resolution
(S.J.Res. 28, 107th Congress)

Joint Resolution

Suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that the conditions specified in section 254(I) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

In the Senate, a vote on final passage of a suspension resolution had to occur within five days of session after it had been reported or discharged.[11] The suspension resolution was considered to be a privileged measure, and Section 258(a)(4) set forth several procedures to expedite its consideration, including a limitation of five hours for debate and a bar against offering any amendments.

Although Section 258(a) did not provide any similar procedures to expedite floor consideration in the House, the House routinely employs special rules reported by the House Rules Committee or other devices to expedite the consideration of legislation.

The second house to act on a suspension resolution was required, at the time of the vote on final passage, to consider the measure passed by the other body. Accordingly, assuming that no amendments had been added, passage of the suspension resolution by the second body would have caused it to be sent directly to the President for his approval, without the need for a conference.

Specific Enforcement Procedures Subject to Suspension

Section 258 (b) of the 1985 act indicated the specific enforcement procedures that were to be suspended upon the enactment of a suspension resolution. These five procedures are discussed in more detail below.

[11] Under Senate precedents, the chair would call for a vote on the suspension resolution by midnight of the fifth day if the Senate had not already taken this action. This matter is discussed in: U.S. Congress. Senate. Committee on the Budget. *Budget Process Law Annotated, 1993 Edition*, by William G. Dauster, Senate print 103-49, (Washington: October 1993), pages 623-625.

Section 302(f). Section 302 of the 1974 Congressional Budget Act provides for the allocation to committees of the aggregate spending levels in the budget resolution. The House and Senate Appropriations Committees, in turn, subdivide their total spending allocations among their subcommittees. This process allows the spending policies in the budget resolution to be enforced as individual bills, particularly the annual appropriations acts, are considered. Section 302(f) generally prohibits the consideration of legislation that would violate a committee spending allocation or subdivision.

Sections 310(d)(1) and (2). Section 310 of the 1974 act sets forth budget reconciliation procedures. Under reconciliation, a budget resolution may include directives to House and Senate committees to recommend changes in direct spending and revenue laws in order to bring direct spending and revenue levels into conformity with budget resolution policies. The recommendations of the instructed committees usually are incorporated into an omnibus reconciliation bill, which is considered under expedited procedures. Sections 310(d)(1) and (2) generally prohibit amendments to reconciliation measures considered in the House and Senate, respectively, that are not deficit neutral.

Section 311(a). Section 311(a) of the 1974 act generally prohibits the consideration of budgetary measures that would violate the aggregate levels in the budget resolution (i.e., total budget authority, outlays, and revenues). Violations would occur if the legislation was expected to cause spending to exceed the ceilings or revenues to fall below the floors. Section 311(a) also prohibits, in the Senate only, the consideration of legislation that would decrease Social Security surpluses or increase Social Security deficits relative to such levels as set forth in the budget resolution. (The House uses a different enforcement mechanism, independent of the 1974 act, to protect the Social Security balances.)

Section 312(b)(1). Section 312(b)(1) of the 1974 act provides for a point of order in the Senate against the consideration of any measure that would cause the discretionary spending limits established under Section 251 of the 1985 Balanced Budget Act, as adjusted, to be exceeded.

A comparable point of order in the Senate was first established in law in 1990 as part of a temporary title of the 1974 act, Title VI — Budget Agreement Enforcement Provisions.[12] Title VI was repealed by the Budget Enforcement Act of 1997, but the Senate point-of-order provision was incorporated into the 1974 act as Section 312(b)(1).[13]

Section 258(b), in indicating the specific enforcement mechanisms that are suspended, includes an outdated reference to Title VI of the 1974 act. However, when the Senate point of order was added to Section 312 in 1997, a provision for its

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[12] The provision was Section 601(b), as added by Section 13111 of the Budget Enforcement Act of 1990 (104 *Stat*. 1388-602 and 603).

[13] The Budget Enforcement Act of 1997 was title X of P.L. 105-33, the Balanced Budget Act of 1997. Section 10118 (111 Stat. 695) repealed Title VI of the 1974 act and Section 10113 (111 Stat. 687-688) incorporated the Senate point-of-order provision.

suspension (upon the enactment of a suspension resolution under Section 258 of the 1985 act) was included as Section 312(b)(2).

Part C of the 1985 Balanced Budget Act. As stated previously, the 1985 Balanced Budget Act, as amended by the Budget Enforcement Act of 1990 and other laws, established discretionary spending limits and a PAYGO requirement, enforced by sequestration. Section 254 of the 1985 act required OMB to issue sequestration reports at least three times a year: a preview report in conjunction with the submission of the President's budget early in the session; an update report in August; and a final report within 15 days after a congressional session ended. (CBO issued sequestration reports as well, but they were advisory only.) Any sequester under the discretionary spending limits, the PAYGO requirement, or both, would have occurred shortly after the final OMB report was issued. In addition, a "within-session" sequester under the discretionary spending limits could have been required during the following session (but prior to July 1) if the enactment of a supplemental appropriations measure caused a violation of the discretionary spending limits.

Section 258(b) would have precluded the "subsequent issuance" of any sequestration report or any sequestration order. For example, if a suspension resolution were enacted in late in a year (e.g., 2001) but before the end of the congressional session, the issuance of OMB's final sequestration report for the pertinent fiscal year (e.g., FY2002) would have been prevented and no sequester for that year could have occurred; similarly, there would have been no sequestration reports or sequester for the following fiscal year (e.g., FY2003). The enactment of a suspension resolution would not, however, have canceled a sequestration order that already had been issued.

31 U.S.C. 1103. Section 258(b) also would have suspended another provision of law, 31 U.S.C. 1103, which generally states Congress's commitment to the goal of avoiding deficits.[14] However, this reference probably is mistaken. Another provision of Title 31 — 31 U.S.C. 1105(f) — required the President's annual budget submission to comply with the deficit targets established in the 1985 Balanced Budget Act. This requirement was terminated several years later when the use of deficit targets was abandoned. Presumably, the drafters of Section 258(b) had intended to refer to Section 1105(f), not Section 1103. In any event, Section 1103 does not contain any enforcement mechanism, merely a policy exhortation.

Restoration of Enforcement Procedures

Section 258(c) of the 1985 Balanced Budget Act provided for the restoration of budget enforcement procedures following a period of suspension. Under the section, enforcement procedures were restored automatically for the first fiscal year beginning at least 12 months after the enactment of a suspension resolution. Using the previous example, if a suspension resolution were enacted in late 2001 but before the end of the congressional session, budget enforcement procedures would be suspended for FY2002-FY2003 and restored for FY2004.

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[14] This provision is sometimes referred to as the "Byrd amendment," after its sponsor, Senator Harry F. Byrd, Jr. of Virginia.

Record of Experience

During the years that the procedures for suspending budget enforcement provisions were available, the United States was in a period of sustained low economic growth only twice — toward the end of calendar year 1990 and the beginning of calendar year 1991, and toward the end of calendar year 2001 and the beginning of calendar year 2002. In 1991, CBO issued low-growth reports three times and the Senate considered, but failed to pass, three suspension resolutions. The House did not take any actions under the suspension procedures that year.

CBO did not issue low-growth reports for any other years until 2001. On October 31, 2001, CBO issued its fourth low-growth report. Senator Tom Daschle, the majority leader, introduced a suspension resolution, S.J.Res. 28, on November 2, which the Senate rejected on November 13. On January 30, 2002, CBO issued its fifth (and final) low-growth report. Majority Leader Daschle introduced a suspension resolution, S.J.Res. 31, on February 7, which the Senate rejected on February 14. The House did not consider a suspension resolution in either instance.[15]

Senate actions taken in 1991, 2001, and 2002 are summarized in **Table 2** and discussed in more detail below.

Table 2. Senate Action on Suspension Resolutions

Congress	Date CBO Report Submitted	Resolution Number	Date Considered	Vote
102nd	01-23-1991	S.J.Res. 44	01-31-1991	2-97
102nd	04-30-1991	S.J.Res. 137	05-09-1991	5-92
102nd	07-29-1991	S.J.Res. 186	09-19-1991	8-88
107th	10-31-2001	S.J.Res. 28	11-13-2001	1-99
107th	01-30-2002	S.J.Res. 31	02-14-2002	(voice)

As **Table 2** shows, the Senate strongly rejected each of the four suspension resolutions determined by rollcall vote, by an average margin of 4-94. Although the House and Senate did not suspended budget enforcement mechanisms under the low-growth suspension procedure, they have effectively suspended them in the past on a case-by-case basis. In some instances, the House and Senate took advantage of features in current enforcement procedures that allow some flexibility in their application, such as by designating certain spending to be emergency requirements, or waived points of order under the 1974 Congressional Budget Act. In other cases,

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[15] See "Nussle Says House Should Not Consider Resolution Suspending Budget Enforcement," by Bud Newman, BNA *Daily Report for Executives*, No. 217, Tuesday, November 13, 2001, page G-1.

special provisions were enacted that intervened in the normal operation of the budget enforcement procedures to prevent a sequester that otherwise would have occurred (such as by instructing the OMB director to set PAYGO balances to zero).[16]

S.J.Res. 44 (102nd Congress)

On January 23, 1991, CBO Director Robert Reischauer submitted a low-growth report to Congress. According to the report, both CBO and OMB projected real economic growth to be less than zero for the quarter that had just ended (the last quarter of calendar year 1990) and the current quarter (the first quarter of 1991). That same day, Senate Majority Leader George Mitchell introduced the required suspension resolution, S.J.Res. 44.[17] S.J.Res. 44 was referred to the Senate Budget Committee, which ordered it reported (without written report) unfavorably on January 24, by a vote of 21-0.

Before consideration of S.J.Res. 44 began on January 31, the Senate agreed by unanimous consent to reduce the debate limitation from five hours to two hours. During Senate debate on the measure, Senators James Sasser and Pete Domenici, the chairman and ranking member, respectively, of the Budget Committee, and other Senators spoke in opposition to the suspension resolution.[18] They expressed their reluctance to suspend procedures needed to enforce the bipartisan budget agreement, embodied in the Omnibus Budget Reconciliation Act of 1990, reached only three months earlier. Further, they pointed out that many economists expected the recession to be mild and over by midyear, even without any legislative action by Congress. If necessary, they maintained, fiscally stimulative legislation could be accommodated by designating spending increases or revenue reductions to be "emergency requirements," thus exempting them from enforcement procedures. Additionally, they pointed to the need to avoid actions that could cause further uncertainty regarding the economy while the United States was engaged in hostilities with Iraq under Operation Desert Storm.

Another argument raised against the suspension resolution was that the issue would be revisited if the recession proved to be longer and deeper than projected at that time. Sustained low growth would require that CBO issue another report in the next quarter, giving the Senate another opportunity to consider a suspension resolution.

After a short debate, the Senate rejected S.J.Res. 44 by a vote of 2-97.

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16 For a detailed discussion of this subject, see CRS Report RL31155, *Techniques for Preventing a Budget Sequester*, by Robert Keith.

17 See the *Congressional Record* of January 23, 1991 at pages 2128-2129 for Majority Leader Mitchell's statement on S.J.Res. 44, the text of the resolution (which also is in the "Suspension Resolution" section of this report), the CBO low-growth report (in the form of a letter from CBO Director Reischauer), and a communication from OMB Director Richard Darman to CBO Director Reischauer on this matter.

18 The entire debate occurs on pages 2637-2652 of the *Congressional Record* of January 31, 1991. See also "Senate Votes Down Measure To Suspend New Rules," by George Hager, *Congressional Quarterly Weekly Report*, vol. 49, number 5, February 2, 1991, page 290.

S.J.Res. 137 (102nd Congress)

The second CBO low-growth report for the year was submitted to Congress on April 30. In the report, CBO Director Reischauer indicated that the Department of Commerce had reported on April 26 that real economic growth had been less than 1% during the first calendar quarter of 1991 and the preceding quarter. On May 6, Majority Leader Mitchell introduced a second suspension resolution, S.J.Res. 137.[19] S.J.Res. 137 was referred to the Senate Budget Committee, which ordered it reported (without written report) unfavorably on May 7, by a vote of 21-0.

The Senate considered S.J.Res. 137 on May 9.[20] Debate time was lowered to one hour by unanimous consent. A majority of Senators spoke in opposition to the suspension resolution, including chairman Sasser and ranking member Domenici of the Budget Committee. Although concerns were expressed about the length of the recession, statements that budget enforcement should not be abandoned were reiterated largely for the same reasons as before. Later that day, the Senate rejected the measure by a vote of 5-92.

S.J.Res. 186 (102nd Congress)

On July 29, CBO submitted its third and final low-growth report for the year to Congress. CBO Director Reischauer indicated that the Department of Commerce had reported on July 26 that real economic growth during the first two calendar quarters of 1991 had been less than 1% (-2.8% for the first quarter and -0.1% for the second quarter). S.J.Res. 186, the required suspension resolution, was introduced by Majority Leader Mitchell on July 31.[21] The measure was referred to the Senate Budget Committee, which ordered it reported (without written report) unfavorably on September 12, by a vote of 19-2. Consideration by the Budget Committee had been deferred while the House and Senate were in summer recess.

The Senate considered S.J.Res. 186 over two days, September 18 and 19.[22] By unanimous consent, the debate limitation was lowered to a total of three hours over the two days.

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[19] See the *Congressional Record* of May 6, 1991 at pages 9936-37 for the text of the resolution and the CBO low-growth report (in the form of a letter from CBO Director Reischauer).

[20] The entire debate occurs on pages 10428-10437 of the *Congressional Record* of May 6, 1991. See also "Playing by the Rules," by George Hager, *Congressional Quarterly Weekly Report*, vol. 49, number 19, May 11, 1991, page 1184.

[21] See the *Congressional Record* of July 31, 1991 at pages 20875-20876 for the text of the resolution and the CBO low-growth report (in the form of a letter from CBO Director Reischauer).

[22] The entire debate occurs on pages 23409-23412 of the *Congressional Record* of September 18, 1991, and on pages 23492-23505 of the *Congressional Record* of September 19, 1991. See also "Senate Turns Down Chance to Junk Budget Rules," *Congressional Quarterly Weekly Report*, vol. 49, number 38, September 21, 1991, page 2680.

As had been the case previously, most of the Senators, including Chairman Sasser and Ranking Member Domenici of the Budget Committee, spoke against passage of the suspension resolution. Although the recession had persisted for months, they stated, its depth had adhered to recent projections, which showed the recession coming to an end in the near term. Several Senators dissented from this view, arguing in particular that spending needed to be increased sharply for extended unemployment benefits and other emerging priorities. Chairman Sasser maintained that the "emergency designation" feature of the budget enforcement procedures allowed the necessary flexibility to provide spending increases for high priority items without abandoning budget discipline altogether:

> When we crafted the budget law, we understood the limitations of the suspension mechanism ... suspension would be only a last resort, and we understood that there had to be an interim remedy between the extremes ... There had to be a remedy between absolute chaos if we suspend and absolute immobility if nothing is done in a time of economic distress.
>
> And the interim remedy that was fashioned was called emergency designation, a safety valve, if you will, designed for one-time spending to alleviate sudden and unforeseen problems ....[23]

The Senate rejected S.J.Res. 186 on September 19 by a vote of 8-88.

S.J.Res. 28 (107th Congress)

On October 31, 2001, CBO issued its fourth low-growth report. CBO Director Dan L. Crippen indicated that the Department of Commerce had reported real growth less than 1% for the current and preceding quarters (i.e., second quarter real growth of +0.3% and third quarter real growth of -0.4%).

Senate Majority Leader Tom Daschle introduced the suspension resolution, S.J.Res. 28, on November 2.[24] The Senate Budget Committee reported the measure unfavorably (without written report), by a vote of 22-0, on November 8.

On November 13, the Senate considered S.J.Res. 28, rejecting it by a vote of 1-99.[25] Prior to consideration of the measure, the Senate agreed by unanimous consent to reduce debate time to two hours.

During Senate debate on the measure, Senators Kent Conrad and Pete Domenici, the chairman and ranking member, respectively, of the Budget Committee, and other Senators spoke in opposition to the suspension resolution. Senator Conrad

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[23] See the remarks of Senator James Sasser in the *Congressional Record* of September 18, 1991, at page 23492.

[24] See the *Congressional Record* of November 2, 2001 at page S11417 for the text of the resolution. The text of the CBO low-growth report was not inserted in the *Congressional Record*, but it is available as H.Doc. 107-144 (November 7, 2001).

[25] The entire debate occurs on pages S11665-11673 and S11711 of the *Congressional Record* of November 13, 2001. See also, "Senate Votes to Maintain Budget Disciplines," [no author indicated] BNA *Daily Report for Executives*, No. 218, Wednesday, November 14, 2001, page G-8.

commented on the need to enact legislation stimulating the weakened economy and responding to the terrorist attacks of September 11, 2001, but argued that long-term fiscal discipline should not be undermined in acting on such measures. He stated:

> The suspension resolution would have us decide now, in one fell swoop, whether to suspend budget enforcement for the next 2 years. I think it is very important that everybody understand what would happen if we went against the recommendation of the Budget Committee and threw out these budget procedures. There would be no protections, no special protections for fiscal discipline for the next 2 years. I think such a blanket waiver would be most unwise. We will be much better off if we continue to look at each bill and amendment individually and retain the ability to invoke budget enforcement procedures against those that threaten our long-term fiscal discipline. This is a fundamental way we protect the integrity of the trust funds of Social Security and Medicare for the long term.[26]

Senator Phil Gramm spoke in favor of not suspending budget enforcement procedures, arguing that they were needed to thwart pending efforts to spend more than the $40 billion in emergency spending that Congress had agreed to in the aftermath of the September 11 attacks. "There seems now to be a mad rush to force-feed the President into spending money."[27]

Representative Jim Nussle, chairman of the House Budget Committee, recommended in a letter to House Majority Leader Richard Armey that the House not consider a suspension resolution. He wrote:

> I believe the Congress should avail itself of other tools to permit the consideration of the stimulus package and other terrorist-related legislation. Under existing law, the Congress can effectively exempt legislation from budget controls by designating it as an emergency. It can also selectively waive components of the budget resolution to permit consideration of specific bills.[28]

The House did not consider a suspension resolution in connection with the fourth CBO low-growth report.

S.J.Res. 31 (107th Congress)

The Congressional Budget Office issued its fifth low-growth report on January 30, 2002. CBO Director Crippen indicated that the Department of Commerce had again reported real growth less than 1% for the current and preceding quarters (i.e., third quarter real growth of -1.3% and fourth quarter real growth of +0.2%).[29]

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[26] See the remarks of Senator Kent Conrad in the *Congressional Record* of November 13, 2001, at page S11666.

[27] See the remarks of Senator Phil Gramm in the *Congressional Record* of November 13, 2001, at page S11672.

[28] Chairman Nussle, as quoted in: "Nussle Says House Should Not Consider Resolution Suspending Budget Enforcement," by Bud Newman, BNA *Daily Report for Executives*, No. 217, Tuesday, November 13, 2001, page G-1.

[29] The CBO low-growth report was printed as H.Doc. 107-144 (February 4, 2002).

On February 7, Majority Leader Daschle introduced the required suspension resolution, S.J.Res. 31.[30] On February 13, the Senate Budget Committee reported the measure unfavorably (without written report) by a vote of 22-0.

The Senate rejected S.J.Res. 31 by voice vote on February 14. By unanimous consent, debate time first was reduced to 30 minutes but then was yielded back altogether and no Senators spoke on the merits of the measure. Ranking member Domenici of the Budget Committee inserted a brief statement into the *Congressional Record*. In the statement, he cited recent indicators of an "increasingly positive" economic outlook, bipartisan interest in maintaining budget enforcement procedures, and the flexibility to waive the procedures when necessary as reasons to reject the suspension resolution:

> The tools of fiscal discipline must be contained so we can convey to the American public and the markets that we are keeping an eye not only on the current challenges we face, but also those longer term challenges.
>
> We must maintain the provisions of the Budget Act that provide us with that future discipline, and we must deal with both tax and spending legislation today while waiving the Budget Act on a case by case basis as needed.[31]

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[30] See the *Congressional Record* of February 7, 2002 at page S497 for the text of the resolution.

[31] See the remarks of Senator Domenici in the *Congressional Record* of February 14, 2002 at page S877.