



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 10, 2021

The Honorable Bernard Sanders
Chairman, Committee on the Budget
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In your October 4, 2021 letter, you requested that the Office of Management and Budget (OMB) provide its predetermination of the sequestration classifications for certain programs in H.R. 5376, Build Back Better Act.¹ OMB's predeterminations are meant to inform your office on programs that would be subject to sequestration in future sequestration orders. This letter addresses the predeterminations for a limited number of new programs and does not address all new programs in H.R. 5376.

These predeterminations follow the sequestration requirements described in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (BBEDCA). For newly enacted programs, OMB generally reviews those provisions that have new budgetary resources and determines the sequestration classification of those resources, in consultation with the implementing Federal agency. In this review, OMB determines whether programs and activities should be exempt from sequestration pursuant to sections 255 and 256 of BBEDCA.

Table 1 provides a list of selected provisions where OMB has made its predetermination of the sequestration classifications for new programs with budgetary resources. In each of these cases, OMB has made a predetermination that these funds would be subject to sequestration in a future sequestration order if that provision were to be enacted. The programs below would follow the sequestration requirements for non-defense budgetary resources in future sequestration orders.

Table 1. Programs Subject to Sequestration

Section of H.R. 5376	Program
Sec. 23001(c)	Birth Through Five Child Care and Early Learning Entitlement
Sec. 23002(b)(1)(B)	Universal Preschool
Sec. 130001	Comprehensive Paid Leave
Sec. 136101	Extension and Modification of Credit for Electricity Produced from Certain Renewable Resources
Sec. 136102	Extension and Modification of Energy Credit

¹ Based on text provided in the Rules committee print 117-18 released on November 3, 2021. These predeterminations are based on information available at this time. These classifications may be revised based on further review of the legislation after it is enacted.

Section of H.R. 5376	Program
Sec. 136105	Investment Credit for Electric Transmission Property
Sec. 136106	Extension and Modification of Credit for Carbon Oxide Sequestration
Sec. 136108	Zero-Emission Nuclear Power Production Credit
Sec. 136204	Clean Hydrogen
Sec. 136501	Extension of the Advanced Energy Project Credit
Sec. 136503	Advanced Manufacturing Investment Credit
Sec. 136504	Advanced Manufacturing Production Credit
Sec. 136601	Qualified Environmental Justice Program Credit
Sec. 136801	Clean Electricity Production Credit
Sec. 136802	Clean Electricity Investment Credit
Sec. 136803	Increase in Clean Electricity Investment Credit for Facilities Placed in Service in Connection with Low-Income Communities
Sec. 136805	Clean Fuel Production Credit
Sec. 137403	Funding for the Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students and Medical Students

Table 2 provides a list of refundable tax credit provisions for which OMB has made a predetermination that these funds would be subject to sequestration in a future sequestration order; however, any portion of the budgetary resources paid to individuals would be exempt from sequestration per section 255(d) of BBEDCA.

Table 2. Refundable Tax Credit Provisions Paid to Both Individuals and Businesses

Section of H.R. 5376	Program
Sec. 136401	Refundable New Qualified Plug-In Electric Drive Motor Vehicle Credit for Individuals
Sec. 136402	Credit for Previously-Owned Qualified Plug-In Electric Drive Motor Vehicles
Sec. 136405	Alternative Fuel Refueling Property Credit
Sec. 136407	Credit for Certain New Electric Bicycles

Sincerely,



Jason S. Miller
Deputy Director for Management